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assembled under the provisions of the Ind

THE Council met at the Council Chambe

Presen

The Hon'ble SIR JOHN WOODBURN, K.C.I
presiding.
The Hon'ble NAWAB BAHADUR SYUD AMI
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble MR. M. FINUCANE, C.S.I.
The Hon'ble RAI DURGA GATI BANERJEA, B.
The Hon'ble MR. J. PRATT.
The Hon'ble BABU NORENDRA NATH SEN.
The Hon'ble BABU SALIGRAM SINGH.
The Hon'ble BABU KALI CHARAN BANERJEE.
The Hon'ble BABU SURENDRANATH BANERJEE.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, of Tahirpur.
The Hon'ble RAJA RANAJIT SINHA BAHADUR, of Nashipur.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.

NEW MEMBERS.

The Hon'ble MR. FINUCANE, the Hon'ble Mr. PRATT, the Hon'ble RAJA RANAJIT SINHA BAHADUR of Nashipur, and the Hon'ble MR. MACKENZIE, took their seats in Council.

INDIGENOUS MANUFACTURES, ARTS AND MINERAL RESOURCES.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government be pleased to lay on the table a statement showing (1) the indigenous manufactures and arts and the mineral resources of Bengal, district by district; (2) what steps, if any, have been taken (*a*) by Government, (*b*) by private parties, to foster and develop them?

plied:—

and non-official, have been published on the mineral resources of Bengal, and on the steps develop them. Government will be happy to e fullest information at its disposal in regard or mineral, in any part of the Province."

E EXPENDITURE.

ANATH BANERJEE said—

hether, in view of the relief granted by the ies of the Bombay Presidency, including the xpenditure as stated in the Financial Statement ndia of the 25th March last, Part VI), the Govern- ord relief to the ~~municipalities of~~ this Province for ..., will the Government kindly state the relief that be granted to the Corporation of Calcutta and the other local ... the Province?

The Hon'ble MR. BAKER replied:—

"The Government proposes to expend a sum of Rs. 5,60,000 in giving assistance to District Boards and Municipalities which have had to incur expenditure on account of plague. Further details of the distribution of this sum, so far as they have been settled, will be found in the Financial Statement which is laid on the table this morning."

OPENING OUT OF CONGESTED AREAS IN CALCUTTA.

The Hon'ble BABU SURENDRANATH BANERJEE said—

Having regard to the recrudescence of plague in Calcutta this year with increased mortality and to the universally admitted fact that the surest and

'127. It remains for us to consider what steps should be taken with respect to the congested areas. The answers (2) which we have obtained to No. 21 of our questions of the 3rd May, 1897, and Dr. Pilgrim's report on Wards 22 and 25 (3) will show what areas require opening out. The most notorious examples are to be found in Wards 5 and 7. All the persons consulted agree as to the congestion of Barabazar, Jorabagan, and the neighbourhood of Colootola. Barabazar preeminently needs opening out. Throughout Calcutta there are numerous areas hich ought to be opened out.

[*Babu Surendranath Banerjee; Mr. Baker.*]

The only possible means of opening out of these areas are by driving roads through them and by making open spaces in them.

* * * * * * * *

'133. So far back as 1803, we have the opinion of the then Governor General that it was the duty of Government to contribute in a just proportion to any expense which may be requisite for the purpose of completing the improvements of the town. We submit that now, after the expiration of nearly a century since that Minute was signed by the Marquis of Wellesley, it is equally the duty of the Government to come to the aid of the citizens of Calcutta, in order to relieve them from the dangers to which they are subject. In the letter written by the Secretary of the Bengal Chamber of Commerce to the Secretary of the Government of Bengal, dated the 4th of January, 1897, the Committee of that Chamber say "that they bear in mind that taxation in the city is almost at a maximum, and that it presses very heavily upon all classes, so that the question of money is one as to which probably the Government may, in the general interests of the Empire, feel called upon to come to the assistance of the city." That it is in the interests of the Empire that Calcutta should be rendered as wholesome as possible, there can be no doubt. A serious epidemic such as plague, if its ravages extended to Calcutta, would seriously dislocate the whole trade of the East. The Imperial revenues would be impaired, and the damage done to English commerce and thus to the interests of England, would be incalculable.

'134. Calcutta is a large market, which distributes to the West the products of the East, and receives the products of the West for distribution through the Indian Empire. The city itself would by no means be the only sufferer by the destruction of its position in the commercial and financial world. It is not inequitable that a tax should be levied from the goods which are sold in the market, for the purpose of keeping up the market. For this reason it is worthy of the consideration of the Government whether some of the taxes to which we will hereafter refer should not be imposed. There is also another reason why Imperial, or at any rate Provincial, revenues should bear a part in reducing Calcutta to order, namely, that for a portion of the year Calcutta is the seat both of the Supreme and of the Local Governments.'

most effective measure by which it can be stamped out is to open up dark, ill-ventilated, and congested areas throughout the Town, will the Government be pleased to state what action it has taken or proposes to take on the recommendations of the Calcutta Building Commission, contained in paragraphs 127 to 134 of their report under the headings "Opening out of congested areas" and "Funds for improvement," extracts from which bearing on this question are quoted in the margin.

The Hon'ble Mr. Baker replied:—

"The Building Commission submitted a draft Bill to enable legislative effect to be given to their recommendations. This has been referred to the Select Committee on the Calcutta Municipal Bill, whose report is shortly expected. Until it is known in what form the proposals of the Building Commission emerge from the Select Committee, and to what extent they have adopted or modified the recommendations of the Commission in respect of such

important matters as the opening out of congested areas and the re-allotment of bustees, it will be premature for Government to make any pronouncement. The important question of the provision of funds for large improvements must await the formulation of the measures by which those improvements are to be carried out."

MUNICIPAL EXPENDITURE.

The Hon'ble BABU SURENDRANATH BANERJEE said—

I have the honour to call attention to the Notification issued by the Municipal Department which is noted in the margin, and to ask whether, in view of the serious inconvenience which it will entail in its practical operation, the Government will be pleased to re-consider the order. Is the Government aware that the effect of such an order would be to prevent expenditure being incurred in excess of the budget estimate, or which has not been provided for in the budget, though such expenditure might often be very necessary and should be immediately incurred? Are not instances of excess expenditure in anticipation of future sanction of frequent occurrence in municipal and other administrations?

"Notification No. 834M, dated the 8th February, 1899.—It is hereby notified for general information that, under section 78 of the Bengal Municipal Act, III of 1884, as amended up to 1st November, 1896, the Lieutenant-Governor is pleased to lay down the following rule regulating the powers of municipalities in respect of the expenditure of money for purposes which are provided for in the budget estimates of the year:—

'The Commissioner of the Division may, in the case of any municipality where, owing to his orders on a budget, having, on a previous occasion, been disregarded, he considers it necessary, issue an order directing that such municipality shall not present to the Treasury any cheque for payment (of establishment or any other specified charges), without previously obtaining the countersignature thereon of the Magistrate or the Sub-divisional Officer (according as the cheque is presented to a District or to a Sub-divisional Treasury); and in such a case the Treasury Officer shall not make payment unless the cheque is so countersigned. A copy of any such order passed by the Commissioner shall be sent by him to the Accountant-General, Bengal, and through the Magistrate to the Treasury Officer.'"

The Hon'ble MR. BAKER replied:—

"Instances have been brought to the notice of Government in which it has been found difficult or impossible for Commissioners to exercise the powers of control over the expenditure of municipalities which are vested in them by section 76 of the Bengal Municipal Act. Cases have occurred in which, when a

Commissioner has refused sanction to an item in a municipal budget, the Municipality has nevertheless continued to employ the establishment or incur the expenditure which had been disallowed, and has disputed or resisted the orders issued by him, the correspondence being sometimes protracted over a considerable period. In such cases, the Commissioner has sometimes been forced eventually to sanction expenditure of which he disapproved, because the money had been actually disbursed in spite of positive orders to the contrary, and there was no practicable means of enforcing its recovery.

"The rule referred to in the question was framed to put a stop to this serious abuse. It is not of general application, but it will enable the Commissioner to effectually prevent repeated disregard of his orders by any municipality. There is no reason to apprehend any inconvenience from its operation."

DETENTION AT CHAUSA PLAGUE CAMP.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been called to the case of Babu Bhola Nath Majumdar and his party who were detained at the Chausa plague camp for twenty-four hours early in January last and in which the Hon'ble Mr. Baker very kindly interested himself?

(*a*) Is it the case that the party were marched off to tho plague camp without any previous examination, although they were coming from a non-infected area, viz., Jubbulpore? Is it the usual practice to send suspected persons to the plague camp without a previous medical examination?

(*b*) Is the statement correct that in this case the wife of Babu Bhola Nath Majumdar, who is a highly respectable lady, was not examined by a female doctor? If not, why not; especially as there were several female doctors at Chausa? Will the Government be pleased to state what the orders of Government are in connection with the examination of females?

The Hon'ble MR. BAKER replied:—

"The attention of Government has been called to the case in question, which was enquired into at the time by the Sanitary Commissioner. It is reported that there were glaring discrepancies in the statements of the party as to the place they had come from, and this rightly aroused suspicion in the

minds of the Inspecting Officers. The party were therefore detained for observation and were released, after disinfection of their clothes, on the following day.

"The rules for the examination of female passengers are contained in Rule VIII (3) of Plague Regulation No. 2 of the 30th November, 1897.

"The other information asked for in the question cannot be given without further enquiry, which, at this distance of time, the Lieutenant-Governor does not consider it necessary to make."

PLAGUE IN OUTLYING DISTRICTS.

The Hon'ble MR. MACKENZIE asked—

Will the Government give any information as to the extent to which plague has prevailed in districts of Bengal outside Calcutta?

The Hon'ble MR. BAKER replied:—

"In answering this question, I should explain that we regard Calcutta as including the town of Howrah and the other contiguous municipalities in the metropolitan area, such as Cossipore and Maniktolla. Cases of plague occurring in this area must be treated as a part of the Calcutta series, to which they really belong.

"In 1898, there was only one outbreak of plague in the interior, viz., in Backergunge. There 11 deaths took place in about three weeks during August and September, and the disease was thoroughly stamped out.

"In 1899 to the end of March there have been four outbreaks.

"One of these occurred in two villages of the Faridpur district in the latter part of February. There have been 32 cases and 30 deaths. No fresh cases have occurred since the 17th March, and the outbreak has been stamped out.

"The next occurred in Dacca, where 41 deaths occurred in two villages in February and March. Here also there have been no fresh cases since the 18th March.

"The third occurred in Darbhanga in a village named Jhalwara, the disease first appearing on the 7th March. There have been 47 cases and 43

deaths. No fresh case has been reported since the 1st April, and it may be hoped that the outbreak is at an end.

"The fourth and last local outbreak was in Saran, where in one small town there have been 88 cases and 76 deaths. The first case seems to have occurred towards the end of January, but it was not recognised as such, and the matter was not brought to the notice of the district authorities till the beginning of March. There has been no fresh case since the 29th March, and though a few of the old cases have not yet completely recovered, we hope shortly to be able to say that the infection has been completely eradicated.

"Besides these four local outbreaks, a very few isolated cases have been reported from Tippera, Nadia, Hooghly, Deoghur, and one or two other places. These were of a sporadic character, and were clearly due to the infection having been imported from elsewhere; and in no instance was there any spread of the disease beyond the immediate surroundings of the person first attacked."

EMBANKMENT AT KATUBDIA.

The Hon'ble Mr. Finucane said :—

"At the meeting of Council held on the 21st December last, the Hon'ble Babu Norendra Nath Sen asked whether the attention of Government had been drawn to the statement contained in the *Sansodhini* newspaper of Chittagong and in the *Bengali* of 22nd October that public money had been wasted in the construction of the embankment at Katubdia, in the district of Chittagong, and whether Government would be pleased to lay on the table the correspondence that had passed between the Port Officer, the Commissioner of the Division, and the Collector of Chittagong on the subject, and to direct a sifting enquiry to be made.

"In reply it was stated, at that Meeting of Council, that there were no grounds for supposing that there had been waste of public money in the construction of the embankment in Katubdia; that the correspondence alluded to had not reached Government, and therefore that a further answer to the question would be given at another Meeting of Council.

"Since then enquiry has been made on the spot by the Collector and Engineer. The facts are these:—The embankment round the island was almost

washed away on the west face and greatly damaged on the east face by the tidal wave of 1897. It was repaired before the monsoon rains, but there were heavy cyclonic gales and excessive rains in June, 1898, which resulted in the repaired embankment being overtopped by the sea and breached in some places by the rush of rain-water from inland.

"The Port Officer visited Katubdia on the 28th June, and reported that, viewing the island from the top of the tower of the light-house, he could see no signs of cultivation except on three small pieces of land on which paddy had been sown for transplanting, and that the light-keepers informed him that the late high tides had come over the Government embankments and breached them in five or six places. As a matter of fact, the transplantation of rice had not begun at the time of the Port Officer's visit.

"Mr. Anderson, the Collector, visited the island in July. He found transplantation then going on and the crops looking well except in particular areas, and reported that there was no such distress as would call for aid from Government or the public. He also reported that the Engineer in charge had done all in his power in repairing the embankments and shown much zeal and courage in visiting the island to supervise the work at a time when the crossing of the channel was both dangerous and difficult.

"The present Collector, Mr. Lea, visited it on February last, and found that in limited areas injury had been caused to the crops by ingress of salt-water due to the breach of the embankments. He promised remissions of rent in those areas. The embankments have been and are being repaired so far as practicable, but it is reported to be impossible to render the island entirely secure against the ingress of salt-water except at an expense that is prohibitive."

[*Mr. Baker.*]

BENGAL FINANCIAL STATEMENT FOR 1899-1900.

The Hon'ble MR. BAKER in laying on the table the Bengal Financial Statement for 1899-190 with explanatory notes, said:—

"I beg to la n the table the Financial Statement for the year 1899-1900, together with the ial statements of account.

"The part o e statement to which most interest attaches will probably be found in paragraph 5, which explains the manner in which it has been decided to apply the special grants of 17 lakhs which have been made by the Government of India in aid of the Provincial Revenues. Apart from these special grants the estimates would have afforded little satisfaction to any one. At the beginning of the year which has just closed, the balances had been reduced to less than 10 lakhs, *i.e.*, to less than one-half of the prescribed minimum working balance of 20 lakhs; and as late as three months ago, it seemed as if the receipts from Excise and Stamps, both of which, and especially the former, had been affected by the famine, were likely to be less productive than usual. In these circumstances, it was incumbent on us to cut down the expenditure in all branches to the bare necessaries of administrative life. We could make no provision for any of the numerous useful and important projects and works which were pressed upon us: and we applied the estimated surplus of the year partly to building up our closing balance to Rs. 16,37,000, and partly to making some provision for plague charges.

"The Government of India nave, however, come to the rescue. Out of their abundance, they have made us grants aggregating 17 lakhs in partial restoration of the large sums which were spent from Provincial Revenues on account of famine relief. This assistance, coupled with an improvement at the eleventh hour under Excise, has enabled us to do something more than make both ends meet. The manner in which it has been decided to apply the money thus placed at our disposal is explained in paragraph 5 of the Financial Statement. In the first place, 3 lakhs have been added to our estimated closing balance, which has thus been raised to Rs. 19,37,000, or nearly to the prescribed minimum. This was a wise and prudent precaution, with which, I think, no one is likely to quarrel. Next after this, we consider that the first claim upon us is the duty of giving some relief to those local bodies which have had to incur heavy expenditure on account of plague. The best and fairest way of doing this has received

a good deal of consideration, for the various local authorities have not by any means all been affected alike. The decision arrived at is this. Firstly, we refund to them the contributions which were levied from them on account of the Plague observation camps at Chausa and elsewhere. These camps were intended for the protection of the whole Province, and though it is quite equitable that the cost of them should be borne rateably by Local Funds, yet the latter had made no budget provision for the charge, which was imposed on them after the year had begun: and we think therefore that relief can most conveniently be given by transferring the charge to Provincial. It will be understood that these remarks apply only to the charges incurred during the past year. For the year now beginning, local authorities will have to make provision in the usual way. Two lakhs of rupees is the amount set apart for this purpose, of which the Calcutta Corporation will receive about Rs. 90,000, and the remainder will go to other Municipalities and District Boards.

"Secondly, we have decided to make a grant to Calcutta of the amount paid by the Corporation under the Plague Regulations up to a maximum of 2½ lakhs. Under Plague Regulation No. 9, dated 30th November, 1897, measures for the prevention of plague in Calcutta are entrusted to the Chairman, who acts under the direct orders of Government. The bulk of the expenditure in Calcutta on account of plague has been incurred in this way, and though the charge is of a strictly local character, yet in view of the status of the city as the capital of the Province and of India, its health and well being are a matter of more direct Imperial concern than those of any town in the interior. Having regard to these obligations and interests, we have decided to make a grant of 2½ lakhs, which is approximately equal to the expenditure actually incurred during 1898-99 under the Plague Regulations. It is hoped that by this means, it will be rendered unnecessary for the Corporation to raise the municipal rates for the present. But it must be clearly understood that Government has no intention of repeating the grant now made: and that in future Calcutta must bear its local charges like any other similar body.

"Thirdly, we provide a sum of Rs. 1,10,000 for grants-in-aid on account of plague to local bodies in the mufassal. Most of these bodies have as yet incurred little expenditure on this account, and many of them will not participate in the allotment. We shall confine the grants to those whose finances have been materially affected.

[*Mr. Taker.*]

"These grants to Local Funds total up to Rs. 5,60,000.

"Then we propose to reserve a sum of 2 lakhs to meet Provincial expenditure on account of plague. In the budget itself, we were only able to allot Rs. 1,38,000 for this purpose, viz., Rs. 88,000 under Police and Rs. 50,000 under Medical. What the expenditure is likely to be cannot possibly be foreseen: but it has been thought prudent to strengthen our position in view of contingencies which are at least possible.

"These various allotments absorb Rs. 10,60,000 out of the 17 lakhs at our disposal.

"Out of the remainder, we have made additional grants of Rs. 90,000 for surveys and settlements, a very useful and remunerative item of expenditure, the provision for which had been cut down with reluctance: of Rs. 50,000 under Education to raise the provision for grants-in-aid to Rs. 6,60,000: and of Rs. 50,000 under Provincial Rates, to enable us to pay to District Boards one-third of the present actual cost of collecting the Road and Public Works cesses. This matter has been referred to more than once in this Council, and the views of Government have been stated already.

"Finally, we have made an additional grant of 4½ lakhs to the Public Works Department for civil buildings and communications. This will enable that Department to do something in the way of constructing feeder roads, to complete the expensive repairs rendered necessary by the earthquake, to make some progress with the General Hospital, and to carry out a few of the most pressing works which have been waiting so long for the provision of the necessary funds.

That, Sir, is the manner in which it has been decided to distribute the windfall which the Government of India have placed at our disposal. I do not suppose the distribution will satisfy everybody. But it is the outcome of very careful consideration, and it is the best and fairest that we have seen our way to make."

EXPLANATORY NOTES ON THE BENGAL FINANCIAL STATEMENT FOR 1899-1900.

PART I.—General Review.

(1) ACCOUNTS OF 1897-98.

In the Financial Statement which was laid before the Council on the 2nd April, 1898, it was explained that when the Budget for 1897-98 had been passed

by the Government of India, it was anticipated that Local Funds would be able to contribute Rs. 8,17,000 towards the total outlay on Famine Relief measures, and that the charge on this account imposed on the Provincial Revenues would be limited to such sum as those revenues could bear without reducing the Provincial balance below half the minimum of 20 lakhs prescribed as the working balance in ordinary years. When the revised estimate of the year was under consideration it was found that the Local Funds had contributed only Rs. 3,56,000, and the Government of India directed that the balance (Rs. 8,17,000—Rs. 3,56,000)=Rs. 4,61,000 should be made good from the Provincial Revenues, thus reducing the Provincial balance from 10 lakhs to Rs. 5,39,000. On a re-consideration, however, of the full facts and figures subsequently laid before the Government of India, that Government agreed to restore the balance to 10 lakhs less Rs. 78,000 which it was found could properly be recovered from the Local Funds in 1898-99. The actual closing balance on 31st March, 1898 was thus Rs. 9,22,000, showing an improvement of Rs. 3,83,000 as compared with the amount passed in the revised estimate for the year.

(2) REVISED ESTIMATE, 1898-99.

2. The budget estimate for 1898-99, as adopted by the Government of India in March 1898, assumed that the year would open with a credit balance of Rs. 5,39,000 and that the total revenues would amount to Rs. 4,55,30,000 and the total expenditure to an equal amount, so that the year would close with the same balance of Rs. 5,39,000. The latest estimate available for the accounts of the year show that the total receipts will probably be Rs. (4,77,17,000 — 17,00,000 =) 4,60,17,000, which is better than was originally expected by Rs. 4,87,000, and that the expenditure will be Rs. 4,52,02,000, which shows a decrease of Rs. 3,28,000. The result is a net improvement of Rs. 8,15,000; and as there is an increase of Rs. 3,83,000 in the opening balance, as explained above, the total improvement on the original estimate is Rs. 11,98,000. The Government of India have also sanctioned a free grant of 15 lakhs from the Imperial Revenues in consideration of the very large amount expended from Provincial Revenues on famine relief, and a further assignment of 2 lakhs to enable the Local Government to grant assistance to those municipalities and local bodies whose funds have been most severely affected by expenditure on

plague. Adding these special grants, the closing balance for the year 1898-99 is now estimated at Rs. 34,37,000.

3. Of the increase on the receipt side, Rs. 50,000 is under Excise, the revenue from which is slowly recovering from the depression caused by the famine; Rs. 80,000 under Assessed Taxes due to the progressive revision of the assessments and general improvement in the administration of this head of revenue; Rs. 74,000 under Jails due to larger sales of manufactured articles; Rs. 1,50,000 under Marine for increased pilotage receipts; Rs. 59,000 under Miscellaneous, being an increase under unclaimed deposits; Rs. 98,000 under Irrigation—Major Works, on account of increased collections of water-rate in the Sone Canals; and of Rs. 53,000 under Civil Works on account of larger collections from ferries. There are also increases of Rs. 25,000 under Customs; Rs. 21,000 under Forests; Rs. 20,000 under Law and Justice; and Rs. 33,000 under Stationery and Printing. The recovery of Rs. 78,000 from Local Funds on account of expenditure on famine relief, referred to in paragraph 1 above, has been adjusted under contributions. Against these increases there are decreases of Rs. 1,17,000 under Stamps, which is an after-effect of famine; Rs. 71,000 under Scientific and other Minor Departments, owing to smaller sales of quinine; Rs. 56,000 under Minor Works and Navigation, due chiefly to short collections of navigation receipts from the Orissa Coast and Calcutta and Eastern Canals and Nadia Rivers; and Rs. 27,000 under Interest on Loans.

4. The net decrease of expenditure is Rs. 3,28,000, which is due to smaller expenditure under Courts of Law (Rs. 58,000), to the more favourable rate of exchange and consequent smaller payments of Exchange Compensation Allowance; to smaller expenditure under Education (Rs. 1,17,000) especially under Arts Colleges and Government schools, chiefly owing to the charges on account of salaries being over-estimated; Rs. 67,000 under Medical under Salaries of Medical Officers; and Rs. 1,16,000 under Civil Works owing to transfers of grants to local bodies for the construction and maintenance of Provincial Buildings. Against these decreases there is an increase of Rs. 89,000 under Police, for the additional Police in Howrah and for a new company of Military Police in the 24-Parganas, sanctioned for the protection of mill areas in and round Calcutta.

(3) BUDGET ESTIMATE, 1899-1900.

5. The budget estimate for 1899-1900 as passed by the Government of India accepts Rs. 34,37,000 as the opening balance, and contemplates

receipts aggregating Rs. 4,64,08,000, and charges aggregating Rs. 4,79,08,000, leaving a closing balance of Rs. 19,37,000. The estimate includes a lump provision of 14 lakhs under Civil Works which is left to the Local Government to distribute according to the necessities of the Province. Looking to the requirements of the several departments, which had to be curtailed in the first instance in consequence of the depletion of the Provincial balance, and in view of the re-appearance of plague in these Provinces, the special allotment has been re-appropriated in the following manner:—

	Rs.
Additional grant under Land Revenue—For surveys and settlements	90,000
Additional grant under Provincial Rates—For larger contribution towards the cost of collecting Public Works Cess ...	50,000
Additional grant under Education—Grants-in-aid ...	50,000
Grant to the Calcutta Municipality for direct charges under Plague Regulations	2,50,000
Grant to other local bodies for plague charges	1,10,000
Refund of contribution made by District Boards and Calcutta and Mufassal Municipalities in aid of expenditure on general measures of prohibition against plague ...	2,00,000
Reserve for plague charges in 1899-1900	2,00,000
Civil Works—Civil Works by Public Works Department ...	4,50,000
Total ...	14,00,000

6. Eliminating the special assignment of 17 lakhs made by the Government of India for 1898-99, the receipts in 1899-1900 will, it is estimated, be better than the revised estimate of 1898-99 by Rs. 3,91,000. The increase is under all the principal heads of revenue except Forests, the increase under Customs being nominal owing to the inclusion of overtime and holiday fees, which were formerly kept outside the accounts: there is a corresponding increase on the expenditure side on account of payment of these fees. On the expenditure side the total grant excluding the special assignment of 14 lakhs is Rs. 4,65,08,000 against Rs. 4,52,02,000, the revised estimate for 1898-99. The increase is Rs. 13,06,000, of which Rs. 1,22,000 is under Revenue heads; Rs. 1,59,000 under Law and Justice, Judicial Courts, due to the provison for salaries of the full sanctioned number of High Court Judges and an additional

District and Session Judge and his establishments; Rs. 1,21,000 under Jails for purchase of raw materials for manufactures to meet the demands of the Military and Police Departments; Rs. 1,79,000 under Police, for strengthening the Calcutta Police Force, for temporary Police for Plague duty, and for the gradual carrying out of the reforms recommended by the Police Commission; Rs. 1,67,000 under Education for larger provision for the Civil Engineering College, Sibpur, for a girls' boarding school at Kurseong, and boarding and other charges of the Eden Hostel for students; Rs. 62,000 under Medical for larger provision for hospital requirements and salaries of establishment. Increased provision has also been made under Scientific and other Minor Departments (Rs. 48,000) chiefly under Cinchona plantation; Rs. 79,000 under Superannuations for progressive increase under Pensions and Gratuities; and Rs. 48,000 under Miscellaneous for larger provision for donations to charitable institutions and for the maintenance of the telegraph line from Demagri to Chittagong. The increase of about 3 lakhs under Civil Works is mainly for earthquake repairs and feeder roads. It also includes a sum of 2¾ lakhs for the General Hospital in Calcutta. The budget is explained somewhat more fully in the next part.

PART II.—Detailed remarks on the Budget for 1899-1900.

RECEIPTS.

7. *Land Revenue.*—The total collections under Land Revenue in 1897-98 amounted to Rs. 3,97,82,188 and the estimate for 1899-1900, as passed by the Government of India, is Rs. 4,07,85,000 against Rs. 4,08,04,000, the revised estimate for 1898-99. The estimate for 1899-1900 includes Rs. 4,50,000 for recoveries on account of the Bihar Survey and Settlement charges against Rs. 6,69,000 provided for in the Revised Estimate.

8. The adjustments between Imperial and Provincial will probably result in a net transfer of Rs. 17,42,000 to Imperial, as shown below:—

	Rs.
Fixed contribution to Imperial Revenues under the terms of the Contract	14,19,000
Add—Payable to Imperial Revenues—	
Contribution on account of transfer of South Lushai Administration to Assam	3,31,000
Carried over ...	17,50,000

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	Rs.
Brought forward ...	17,50,000
Compensation for loss to the excise revenue of the North-Western Provinces and Oudh consequent on the importation of Shahjahanpur Rum in bond to Bengal ...	4,000
Total ...	17,54,000
Deduct—To be recovered from Imperial Funds—	
Grant for transfer of Imperial Buildings to the charge of local bodies	6,000
Grant for the transfer of the maintenance of Barrackpore Park and gardens	6,000
Total ...	12,000
Net sum to be transferred to Imperial Funds ...	17,42,000

9. The estimated Provincial share of Land Revenue is arrived at as follows:—

	Rs.
Gross Land Revenue	4,07,85,000
Deduct 12 per cent. on collections from Government Estates (Provincial)	5,90,000
Deduct recoveries of Bihar Survey and Settlement charges (Imperial)	4,50,000
Total deduction ...	10,40,000
Net amount divisible between Imperial and Provincial Funds	3,97,45,000
Provincial share of above (one-fourth)	99,36,000
Deduct on account of adjustments	17,42,000
Net ...	81,94,000
Add 12 per cent. on collections from Government Estates	5,90,000
Total Provincial share ...	87,84,000

10. *Stamps.*—The budget estimate of the total revenue for 1898-99 was passed by the Government of India at Rs. 1,76,56,000. The actual receipts in 1897-98 amounted to Rs. 1,77,59,416 against Rs. 1,75,74,296 in the preceding year; but the actuals of these 2 years were specially high owing to the execution of a large number of bonds and documents on account of scarcity, and as the latest returns from the Comptroller-General show that the receipts during the first 11 months of 1898-99 have fallen off by Rs. 2,67,000 as compared with those of the corresponding period of 1897-98, the revised estimate for 1898-99 has been placed at Rs. 1,75,00,000. Allowing for an increase of 2½ lakhs over the revised estimate, the estimate for 1899-1900 amounts to Rs. 1,77,50,000. The Provincial share of these receipts is three-fourths.

11. *Excise.*—The influence of famine was especially felt under this head of revenue. After a steady growth from Rs. 1,21,48,000 in 1893-94 to Rs. 1,33,78,000 in 1895-96 and Rs. 1,33,99,000 in 1896-97, it fell to Rs. 1,27,48,000 in 1897-98. The original estimate for 1898-99 was Rs. 1,32,50,000; and as the figures of the first ten months of 1898-99 show an increase of Rs. 3,86,000 over the actuals of the corresponding period of the preceding year, the revised estimate has been placed at Rs. 1,33,50,000. The effects of the famine on this branch of the revenue seem now to be exhausted. The price of food-grains has fallen, and larger receipts are anticipated from the new settlement of Excise shops in Calcutta and from the importation of Rum in bond from the North-Western Provinces and Oudh to Bengal. The estimate for 1899-1900 has accordingly been placed at Rs. 1,35,00,000, which is 1½ lakhs over the revised estimate for 1898-99. The Provincial share of one-half is Rs. 67,50,000.

12. *Provincial Rates.*—The budget estimate of total receipts from Provincial Rates for 1898-99 was Rs. 47,30,000. The actuals of 1897-98 under Public Works Cess amounted to Rs. 44,43,153 and under General Rates for management of private estates to Rs. 1,41,545, while the collections in the first ten months of 1898-99 show an increase of Rs. 83,000 under the former and Rs. 48,000 under the latter head as compared with the corresponding period of the preceding year. In view of these figures the revised estimate for the total of Provincial Rates has been placed at Rs. 47,22,000, and the estimate for 1899-1900, at Rs. 47,97,000. An increase is expected in the districts of Dinajpur and Backergunge on the completion of Cess re-valuation in those districts.

13. *Customs.*—The original estimate of Provincial receipts for 1898-99 was Rs. 93,000. The actual receipts in 1897-98 amounted to Rs. 98,993 and those in the first seven months of 1898-99 show an increase of Rs. 14,553 over those of the corresponding period of the previous year. In view of these figures the revised estimate for 1898-99 has been raised to Rs. 1,18,000. The estimate for 1899-1900 has been placed at Rs. 2,18,000. The increase is due to the inclusion of the receipts from overtime and holiday fees realised for payment to Preventive Officers, which were hitherto not included in the Government accounts. These average about Rs. 1,23,000 a year.

14. *Assessed Taxes.*—The budget estimate of receipts from Income-tax for 1898-99 was passed by the Government of India for Rs. 49,00,000. The actual collections of last year amounted to Rs. 49,49,450 and those of the twelve months ending 28th February were Rs. 50,62,000, and the revised estimate for 1898-99 has been passed for Rs. 50,60,000. Having regard to the progressive increase of revenue during the last five years, which shows an increase of 7¼ lakhs, the estimate for 1899-1900 has been placed at Rs. 51,50,000. The Provincial share of one-half is Rs. 25,75,000.

15. *Registration.*—The budget estimate under this head for 1898-99 was Rs. 15,10,000 against Rs. 15,80,164, the actuals of 1897-98. The receipts in 1897-98 were the highest on record and were due to Famine, which caused an abnormal increase in the number of registrations. The budget has been repeated for the revised estimate for 1898-99, but in view of the increased facilities afforded by the increase in the number of Registration offices, the estimate for 1899-1900 has been raised to Rs. 15,50,000 and the Provincial share of one-half amounts to Rs. 7,75,000.

16. *Interest.*—The estimate of loans for 1899-1900, as passed by the Government of India, provides for a return of Rs. 4,02,000 under Interest, thus:—

		Rs.
Interest on advances to cultivators ...	... ...	68,000
Ditto	drainage and embankment advances ...	87,000
Ditto	loans to land-holders	13,000
Ditto	loans to Municipal and other public Corporations	1,71,000
Ditto	Government securities of the Education Department	16,000
Ditto	Miscellaneous accounts	47,000
	Total ...	4,02,000

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17. *Law and Justice—Courts of Law.*—The receipts from Magisterial fines declined up to 1897-98, but show a small increase in 1898-99. The estimate for 1899-1900 has been placed at Rs. 8,09,000 against Rs. 8,03,427, the actuals of 1897-98.

18. *Jails.*—The receipts under the head Jail Manufactures show an annual increase since 1893-94, and this is due to larger supplies of manufactured articles to the Police and Military Departments. The revised estimate for 1898-99 has been placed at Rs. 10,80,000 and the estimate for 1899-1900 at Rs. 11,0[illegible],000 against Rs. 10,26,570, the actuals of 1897-98.

19. *Police.*—The estimate for 1899-1900 is Rs. 2,68,000 against Rs. 2,15,000, the revised estimate for 1898-99, and Rs. 2,05,524, the actuals of 1897-98. The increase is partly due to larger recoveries on account of punitive police, but mainly to anticipated recoveries (Rs. 48,000) from Municipalities on account of police employed on plague duties in 1899-1900.

20. *Marine.*—The budget estimate of total receipts for 1898-99 was Rs. 10,00,000. This has been raised to Rs. 11,50,000 in the revised estimate with reference to the actuals of the first ten months of 1898-99 which show an increase in the Calcutta Pilotage receipts over those of the preceding year. The actuals in 1897-98 were Rs. 11,38,911. The estimate for 1899-1900 has been passed for Rs. 11,00,000, as Pilotage Receipts are of a fluctuating character depending on the tonnage of vessels arriving and departing from the Port.

21. *Medical.*—The estimate under this head is Rs. 2,10,000 against Rs. 2,00,000, the revised estimate for 1898-99, and Rs. 1,98,936, the actuals of 1897-98. The increase is under Hospital receipts, as the improvements now being carried out at the General Hospital are expected to attract a larger number of paying patients.

22. *Scientific and other Minor Departments.*—The total receipts for 1899-1900 are estimated at Rs. 1,92,000 against Rs. 1,60,000, the revised estimate for 1898-99, and Rs. 2,20,699, the actuals of 1897-98. The decrease is partly under Emigration fees, but chiefly under Cinchona receipts, which are of a fluctuating character depending greatly on season.

23. *Miscellaneous.*—The receipts under this head are essentially fluctuating and difficult to forecast. The estimate for 1899-1900 has been placed at Rs. 6,87,000 against Rs. 7,53,000, the revised, Rs. 6,94,000, the budget estimate

for 1898-99, and Rs. 7,62,987, the actuals of 1897-98. The new estimate is based on the actuals of past years.

24. *Irrigation: Major Works.*—The budget estimate for 1898-99 was Rs. 17,02,000 and the revised estimate is taken at Rs. 18,00,000. The increase is in the Sone Canals, where the collection of water-rate and the navigation receipts will be better than the budget. The estimate for 1899-1900 has been placed at Rs. 17,01,000, as the actual collections under this head are uncertain, and depend on the amount of rainfall.

25. *Irrigation: Minor Works.*—The estimate of receipts under Public Works Department for 1899-1900 is Rs. 6,63,000. The budget and revised estimates for 1898-99 are Rs. 7,16,000 and Rs. 6,60,000 respectively. The falling off of Rs. 56,000 is under Navigation receipts from the Orissa Coast and Calcutta and Eastern Canals and Nadia rivers.

26. *Civil Works.*—The estimate of receipts in charge of the Civil Department is Rs. 2,83,000 against Rs. 2,58,000, the budget, Rs. 3,11,000, the revised estimate for 1898-99, and Rs. 2,60,777, the actuals of 1897-98. The receipts from Ferries were abnormally high in 1898-99.

EXPENDITURE.

27. *Land Revenue.*—The estimate of expenditure for 1899-1900 amounts to Rs. 39,28,000 against Rs. 40,48,000, the budget estimate for 1898-99, and Rs. 43,52,321, the actuals of 1897-98, as shown below :—

	Actuals, 1897-98.	Revised estimate, 1898-99.	Estimate, 1899-1900.
1	2	3	4
	Rs.	Rs.	Rs.
(1) Survey and Settlement ...	7,35,394	4,65,000	3,07,000
(2) Charges of District Administration	30,71,373	30,05,000	30,27,000
(3) Management of Government Estates	4,69,304	4,94,000	5,04,000
(4) Land Records and Agriculture ...	76,250	84,000	90,000
Total ..	43,52,321	40,48,000	39,28,000

The increase under sub-head (2) is due to the increase in the number of Assistant Magistrates and their establishments, that under (3) is in proportion to the increased collections expected in 1899-1900, and that under (4) is due to a deduction of Rs. 7,000 only, as the share debitable to Bihar Settlement Opera-

tions, against Rs. 16,178 in 1897-98. The estimate of the Survey and Settlement Departments as passed by the Board of Revenue after careful consideration amounted to Rs. 3,97,000, but this had to be reduced to Rs. 3,07,000 with reference to the Provincial resources. The completion of these operations will, it is anticipated, have the effect of enhancing the revenue, and as the Government of India have made a free grant of 15 lakhs in aid of Provincial revenues, an additional allotment of Rs. 90,000 has been sanctioned under this head.

28. *Stamps.*—The estimate of expenditure for 1899-1900 amounts to Rs. 6,92,000 against Rs. 7,14,000, the budget estimate for 1898-99. The decrease is under "Stamp-paper supplied from Central Stores," the estimate under this head being Rs. 3,50,000 against Rs. 3,74,000, the budget estimate for 1898-99. The Provincial share of three-fourths is Rs. 5,19,000.

29. *Excise.*—The total expenditure for 1899-1900 is estimated at Rs. 7,00,000 against Rs. 6,92,000, the budget estimate for 1898-99. The estimate includes a provision of Rs. 10,000 for supply of uniforms to the Excise Detective Staff and a similar provision for strengthening that staff in case it is decided to introduce the system of tree-tax on toddy trees.

30. *Customs.*—The estimate of expenditure for 1899-1900 amounts to Rs. 9,28,000, against Rs. 7,97,000, the budget estimate for 1898-99, and Rs. 7,89,789, the actuals of 1897-98. The increase is due to a provision for larger expenditure under "Allowances" in consequence of the alteration in the procedure by which the payments to Preventive Officers on account of overtime and holiday fees, which hitherto were not shown in the accounts, are now charged to this head by *per contra* credit as receipts. Larger provision has also been made under "Supplies and Services" to meet the charges for stores and dockyard supplies and for rewards to informers.

31. *Forests.*—The total expenditure in 1899-1900 is estimated at Rs. 5,60,000 against Rs. 5,18,000, the revised estimate for 1898-99. The estimate includes a provision of Rs. 16,500 for the cost of a steam-launch for the Chittagong Division and for the full sanctioned scale of officers and establishments.

32. *Registration.*—The estimate for 1899-1900 is Rs. 8,28,000 against Rs. 9,08,332, the actuals of 1897-98. The increase is partly under "Allowances" and "Supplies and Services," but chiefly on account of commission to Rural Sub-Registrars which continues to increase yearly.

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33. *General Administration.*—The estimate under this head amounts to Rs. 16,95,000 against Rs. 17,24,000, the budget estimate for 1898-99. The estimate for 1898-99 included a provision of Rs. 40,000 for the cost of a new vessel for the Commissioner of Chittagong.

34. *Law and Justice—Courts of Law.*—The estimate under this head for 1898-99 was Rs. 89,73,000, but in the revised it was reduced to Rs. 89,15,000, chiefly owing to one of the appointments of High Court Judges being vacant for eight months of the year. The estimate for 1899-1900 has been passed for Rs. 90,74,000, and it includes provision for the salaries of the full sanctioned number of Judges. Larger provision has also been made for establishment of Government Pleaders, for salary of one Additional District and Sessions Judge and his establishment, and for increased establishment under Subordinate Judges and Munsifs. Increased provision has also been made for a moiety of the salaries of Additional Assistant Magistrates.

35. *Jails.*—The estimate of total expenditure for 1899-1900 is Rs. 24,41,000 against Rs. 23,50,000, the budget estimate for 1898-99. The increase is due to a provision for the improvement of the Warder establishment and to a larger grant for raw materials in view of anticipated larger demands from the Police, Military and Excise Departments.

36. *Police.*—The following table compares the estimates of expenditure under this head:—

	Budget estimate, 1898-99.	Revised estimate, 1898-99.	Estimate, 1899-1900.
1	2	3	4
	Rs.	Rs.	Rs.
(1) Presidency Police	7,64,000	7,70,000	8,19,000
(2) Municipal "	46,500	48,000	49,000
(3) Superintendence	1,58,500	1,65,000	1,58,000
(4) District Executive Force ...	45,91,500	47,10,000	48,12,000
(5) Village Police	65,000	20,000	39,000
(6) Special "	1,30,500	1,37,000	1,44,500
(7) Railway "	1,33,000	1,29,000	1,37,000
(8) Cattle-pounds	5,000	5,000	4,000
(9) Refunds	3,000	2,000	2,500
Total ...	58,97,000	59,86,000	61,65,000

[*Mr. Baker.*]

The increase under head (1) is for strengthening the different branches of the Calcutta Police Force at an annual extra charge of Rs. 63,552, of which Rs. 59,000 may be incurred in 1899-1900. The increase under head (4) District Executive Force is chiefly for the substitution of Sub-Inspectors for head-constables as investigating officers in accordance with the recommendations of the Police Commission and for an increase of temporary police on Plague duty. Larger provision has also been made for travelling allowance with reference to actuals, and for clothing for the additional force now employed. The increase under (6) Special Police is for the new Military Police Company sanctioned in 1898 for the district of 24-Parganas for protection of mill-areas on the banks of the river Hooghly near Calcutta, and that under (7) is for additional force sanctioned for new extensions of railways.

37. *Marine.*—The estimate of expenditure for 1899-1900 is Rs. 9,66,000 against Rs. 9,22,000, the revised estimate for 1898-99. The increase is partly under Repairs of vessels and partly under Pilotage charges but specially for grants to the Chittagong Port Trust and the Balasore Port Fund, to meet deficit balances of those Funds.

38. *Education.*—The grant for expenditure under the direct control of the Education Department for 1898-99 was Rs. 28,97,000, but in the revised estimate this has been reduced to Rs. 27,80,000 as savings are anticipated under Salaries and in grants for the training of teachers and stipends to pupil teachers of Normal Schools. The estimate for 1899-1900 is Rs. 29,47,000, and provides for the following additional charges:—

(1) Purchase of instruments for the Astronomical Observatory, Presidency College (Rs. 9,000).

(2) Experimental farm at Sibpur now attached to the Sibpur Engineering College (Rs. 4,000).

(3) Additional extra provision of Rs. 10,000 for instructing staff for the Civil Engineering College.

(4) Larger provision for boarding charges and a provision of Rs. 5,000 for apparatus for the Physical Laboratory of the Civil Engineering College.

(5) Increased provision for payment of remuneration to examiners, by fees, and for rewards to teachers and [illegible] of Sanskrit tols.

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Owing to restricted resources, the original allotment in the budget for grants-in-aid was Rs. 6,10,000, against 6,26,000, the actuals of 1896-97. The grants for the last two years had also to be restricted on account of the strain on Provincial revenues. An additional grant of Rs. 50,000 will now be made out of the special grant made by the Government of India.

39. *Medical.*—The estimate for 1899-1900 is Rs. 19,65,000, against Rs. 19,70,000, the budget estimate for 1898-99, and Rs. 20,49,340, the actuals of 1897-98. The actuals of 1897-98 include Rs. 2,51,000 on account of the charges in connection with Plague, while the estimate for 1899-1900 provides Rs. 50,000 only for the same purpose. The re-appearance of Plague in these Provinces and the preventive measures which are being taken are likely to entail much heavier expenditure than has been provided for in the estimate. A special reserve of two lakhs will be kept under this head out of the free grant made by the Government of India in addition to the allotment of Rs. 5,60,000 for grants-in-aid of Local Fund expenditure and refunds of their contribution to outlay on general measures as shown in paragraph 5 above.

40. *Scientific and other Minor Departments.*—The estimate for 1899-1900 is Rs. 4,67,000 against Rs. 4,65,000, the budget estimate for 1898-99, and Rs. 4,41,227, the actuals of 1897-98. The increase is under Veterinary Institution for increase in boarding charges owing to the opening of a 3rd-year class, and for the renewal of flooring of a cattle-shed.

41. *Superannuation.*—The charges under this head show a progressive increase year after year owing to the increase in the claims to pensions. The estimate for 1899-1900 is Rs. 22,30,000 against Rs. 21,51,000, the revised estimate for 1898-99, and Rs. 20,74,040, the actuals of 1897-98.

42. *Stationery and Printing.*—The estimate for 1899-1900 is Rs. 11,46,000, against Rs. 11,45,000, the revised estimate for 1898-99, and Rs. 11,79,647, the actuals of 1897-98. The fluctuations are chiefly in the value of stationery supplied from Central Stores.

43. *Miscellaneous.*—The estimate under this head for 1899-1900 is Rs. 2,55,000 against Rs. 2,38,000, the budget estimate for 1898-99, showing an increase of Rs. 17,000. The increase is partly under Donations for charitable purposes, a provision having been made for a grant of Rs. 10,000 to the Lady

Dufferin Hospital, partly under Special Commissions of Enquiry and partly under Khedda establishment.

44. *Irrigation—Minor Works in charge of the Public Works Department.*—The estimate for 1899-1900 is Rs. 14,84,000 against Rs. 14,83,000, the budget estimate for 1898-99, and Rs. 17,06,718, the actuals of 1897-98. The grant for agricultural works has been raised from Rs. 7,65,900 in 1898-99 to Rs. 8,44,500 in 1899-1900, while the provision for capital expenditure has been reduced from Rs. 2,84,300 in the estimate for 1898-99 to Rs. 95,400 in 1899-1900.

45. *Civil Works in charge of the Public Works Department.*—The Provincial expenditure for 1899-1900 is Rs. 33,59,000. The allotment includes the following grants for Original Works :—

	Rs.
Re-constructing Rangpur Collectorate	44,000
Ditto Magistrate's Court and Police Office buildings	24,000
Ditto Bogra Collectorate	40,000
Addition to Chapra Collectorate	37,000
Improving Monghyr Collectorate	31,500
Re-constructing Judge's Court building, Rangpur ...	84,000
Constructing Judge's Court, Mymensingh	37,000
Re-constructing a treble Munsifi at Nilphamari	11,000
Constructing a double Munsifi and record-room at Bogra ...	26,000
Ditto a Subdivisional Court at Gaibanda	16,000
Ditto ditto and Munsifi at Thakurgaon	25,000
Re-constructing the male hospital in Rajshahi Central Jail ...	12,000
Presidency General Hospital	2,75,000
Re-constructing the Magistrate's residence at Bogra ...	11,000
Ditto the bridge over Poon-Poon river ...	15,000
Lilajan Causeway	19,000
Constructing feeder roads in the Western Duars	55,000
Ditto ditto the Eastern Duars	20,000
Ditto Bharamara-Taragonia road	30,000
Ditto Alamdanga-hât-Boalia road	20,000
Ditto Feeder roads to Assam-Bengal Railway ...	10,000
Ditto ditto to East Coast Railway ...	10,000
Ditto ditto in Chota Nagpur	5,000

As stated in paragraph 5 above, an additional allotment of Rs. 4,50,000 will now be made under this head out of the free grant made by the Government of India.

BENGAL PROVINCIAL REVENUE.

(In Rupees omitting 000's excepting in the Actuals.)

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.
1	2	3	4	5
Opening Balance ...	39,54,495	5,39	9,22	34,37
Principal Heads of Revenue—				
I.—Land Revenue { Proper	1,01,82,698	1,04,68	1,04,72	1,05,26
I.—Land Revenue { Adjustments ...	—7,67,287	—17,11	—34	—17,42
IV.—Stamps	1,33,19,562	1,32,42	1,31 25	1,33,18
V.—Excise	63,73,874	66,25	66,75	67,50
VI.—Provincial Rates	45,84,698	47,30	47,22	47,97
VII.—Customs	98,993	93	1,18	2,18
VIII.—Assessed Taxes	24,74,725	24,50	25,30	25,75
IX.—Forests	5,94,643	4,64	4,85	4,80
X.—Registration	7,90,082	7,55	7,55	7,75
Total ...	3,76,51,988	3,71,16	3,88,48	3,76,92
XII.—Interest	3,12,555	4,27	4,00	4,02
Receipts by Civil Departments—				
XVI.—Law and Justice—				
Courts of Law	8,03,427	7,96	8,16	8,09
Jails	10,26,570	10,06	10,80	11,00
XVII.—Police	2,05,524	2,22	2,15	2,68
XVIII.—Marine	11,38,911	10,00	11,50	11,00
XIX.—Education	5,88,343	6,62	6,55	6,64
XX.—Medical	1,98,936	2,00	2,00	2,10
XXI.—Scientific and other Minor Departments	2,20,699	2,31	1,60	1,92
Total ...	41,82,410	41,17	42,76	43,43
Miscellaneous—				
XXII.—Receipts in aid of Superannuation ...	62,560	56	59	62
XXIII.—Stationery and Printing	1,52,920	1,24	1,57	1,57
XXV.—Miscellaneous	7,62,987	6,94	7,53	6,87
Total ...	9,78,467	8,74	9,69	9,06
Irrigation—				
XXIX.—Major Works (direct receipts) ..	21,89,577	17,02	18,00	17,01
XXX.—Minor Works and Navigation—				
By Public Works Department ...	6,58,356	7,16	6,60	6,63
By Civil Department	1,32,839	1,27	1,27	1,38
Total ...	29,80,772	25,45	25,87	25,02
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department ...	2,01,564	1,93	1,93	1,93
By Civil Department	2,60,777	2,58	3,11	2,83
Total ...	4,62,341	4,51	5,04	4,76
Contributions	65,181	.....	1,33	87
Total ...	4,66,23,714	4,55,30	4,77,17	4,64,08
GRAND TOTAL ...	5,06,78,209	4,60,69	4,86,39	4,98,45

BENGAL PROVINCIAL EXPENDITURE.

(In Rupees omitting 000's excepting in the Actuals.)

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.
1	2	3	4	5
Direct Demand on the Revenue—				
1. Refunds and Drawbacks	1,77,291	1,78	1,85	1,74
2. Assignments and Compensations ...	1,63472	1,65	1,34	1,78
3. Land Revenue	43,52321	40,48	40,73	39,28
6. Stamps	5,12,648	5,36	4,99	5,19
7. Excise	3,36,993	3,46	3,33	3,50
8. Provincial Rates	52,604	59	50	70
9. Customs	7,89,789	7,97	7,87	[illegible],28
10. Assessed Taxes	94,888	96	96	[illegible]7
11. Forests	3,26,718	2,77	2,59	2,80
12. Registration	4,54,166	4,44	4,50	4,64
Total ..	72,60,890	69,46	68,66	69,88
Interest—				
13. Interest on Ordinary Debt	2,26,031	2,48	2,49	2,51
Post Office, Telegraph, and Mint—				
15. Post Office	4,657	3	8	3
Salaries and Expenses of Civil Department—				
18. General Administration	17,37,355	17,24	17,51	16,95
19. Law and Justice { Courts of Law ...	91,11,367	89,73	89,15	90,74
19. Law and Justice { Jails	25,17,550	23,50	23,20	24,41
20. Police	64,12,987	58,97	59,86	61,65
21. Marine	9,45,941	8,91	9,22	9,66
22. Education	27,66,270	28,97	27,80	29,47
24. Medical	20,49,340	19,70	19,03	19,65
25. Political	23,761	18	40	21
26. Scientific and other Minor Departments	4,41,227	4,65	4,19	4,67
Total ...	2,00,05,798	2,51,85	2,50,36	2,57,41
Miscellaneous—				
29. Superannuation, &c	20,74,040	21,26	21,51	22,30
30. Stationery and Printing	11,79,647	11,16	11,45	11,46
32. Miscellaneous	2,39,621	2,38	2,07	2,55
Total ...	34,93,308	34,80	35,03	36,31
Famine Relief and Insurance—				
33. Famine Relief	27,39,241	.....	.....	...
Irrigation—				
42. Major Works—				
Working Expenses	13,51,858	18,67	14,10	13,80
Interest on Debt	24,60,946	24,59	24,57	24,55
43. Minor Works and Navigation—				
By Public Works Department ...	17,06,718	14,83	15,03	14,84
By Civil Department	4,079	13	5	6
Total ..	55,23,601	53,22	53,76	53,25
Buildings and Roads—				
45. Civil Works—				
By Public Works Department ...	31,16,704	32,06	30,60	33,59
By Civil Department	1,02,807	90	80	15,00
Total ...	32,19,511	32,96	31,40	48,59
Contributions	11,82,672	10,50	10,30	11,10
Total ...	4,96,56,209	4,55,30	4,52,02	4,79,08
Closing Balance ...	9,22,000	5,39	34,87	19,37
GRAND TOTAL ...	5,05,78,209	4,60,69	4,86,89	4,98,45
Provincial surplus (+) or deficit (—) ...	—30,32,495	.....	+25,15	—15,00

APPENDIX A.

Bengal Provincial Receipts in detail of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

I.—Land Revenue—

HEAD.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Gross Land Revenue	3,97,82,188	4,08,73,000	4,08,04,000	4,07,85,000	
Deduct 12 per cent. on collections from Government estates (wholly Provincial)	5,43,588	5,84,000	5,84,000	5,90,000	
Deduct recoveries of Bihar survey and settlement charges (Imperial)	6,82,159	7,51,000	6,69,000	4,50,000	
Total deduction ...	12,25,747	13,35,000	12,53,000	10,40,000	
Net amount divisible between Imperial and Provincial Funds	3,85,56,441	3,95,38,000	3,95,51,000	3,97,45,000	Increase due to revision of settlements.
Provincial share of above (one-fourth)	96,39,110	98,84,000	98,88,000	99,36,000	
Deduct on account of adjustments	−7,67,287	−17,11,000	−34,000	−17,42,000	As per details below.
Net ...	88,71,823	81,73,000	98,54,000	81,94,000	
Add 12 per cent. collections	5,43,588	5,84,000	5,84,000	5,90,000	
Total Provincial share ...	94,15,411	87,57,000	1,04,38,000	87,84,000	

Adjustments—

Fixed contribution to Imperial Revenues under the Provincial Settlement	14,19,000	14,19,000	14,19,000	14,19,000	
Add payable to Imperial—					
For transfer of the South Lushai Administration to Assam	.....	3,00,000	3,31,000	3,31,000	The administration of the South Lushai Hills has been transferred to Assam from the 1st April 1898.
For compensation of the loss to the Excise Revenue of the North-Western Provinces and Oudh consequent on the importation of Shahjahanpur rum in bond to Bengal	.....	... ..	.....	4,000	
Total ...	14,19,000	17,19,000	17,50,000	17,54,000	
Deduct to be recovered from Imperial—					
Special assignment on account of survey and settlement charges	6,23,000	.....	.....	.....	
For transfer of Imperial buildings to the charge of local bodies	15,650	5,000	13,000	6,000	
For transfer of Barrackpore Park and gardens to the charge of the Local Public Works Department	.....	.....	.....	6,000	Transferred with effect from 1st April 1899.
For Assam Jubilee scholarships	1,912	3,000	3,000	.....	
For compensation for loss of revenue in 1896-97 on account of the discontinuance of the system of prepayment of duty in Bengal on ganja exported to the North-Western Provinces and Oudh	10,967	.....	.....	.....	
For completion of a road from Luchen and Luchang, Sikkim	184	.....	.....	.....	
Special contribution in aid of Provincial Revenues	.....	.....	15,00,000	.....	Special grant made by the Government of India in consideration of large expenditure on Famine Relief from Provincial Funds in 1896-97 and 1897-98.
Special grant to local bodies in aid of Plague expenditure	.....	.....	2,00,000	.....	Special grant for distribution to municipalities and local bodies whose funds have been seriously affected by expenditure on measures for the prevention of plague.
Total ...	6,51,713	8,000	17,16,000	18,000	
Net sum to be transferred ...	7,67,287	17,11,000	34,000	17,42,000	

IV.—Stamps—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Sale of general stamps	50,13,095	40,65,000	46,30,000	46,70,000	The receipts in 1897-98 were specially high owing to the execution of a large number of bonds and documents on account of scarcity.
Sale of court-fee stamps	1,24,18,362	1,24,00,000	1,25,72,000	1,27,82,000	
Sale of plain paper to be used with court-fee stamps	2,58,844	2,50,000	2,00,000	2,00,000	
Duty on impressing documents	6,313	11,000	11,000	11,000	
Fines and penalties	24,161	25,000	25,000	25,000	
Miscellaneous	8,641	5,000	2,000	2,000	
Total	1,77,59,416	1,78,56,000	1,75,00,000	1,77,80,000	
Provincial share (three-fourths)...	1,33,19,562	1,32,42,000	1,31,25,000	1,33,13,000	

V.—Excise—

License and distillery fees and duties for the sale of liquors and drugs	96,57,721	1,00,00,000	1,01,05,000	1,02,55,000	The revenue is reviving after the depression caused by the famine.
Gain on sale-proceeds of excise opium	17,11,846	17,80,000	17,80,000	17,80,000	
Duty on ganja	13,65,394	14,50,000	14,50,000	14,50,000	
Fines, confiscations and miscellaneous ...	12,652	20,000	15,000	15,000	
Transit duty on excise	134	.....	.....	.....	
Total .	1,27,47,747	1,32,50,000	1,33,50,000	1,35,00,000	
Provincial share (one-half)	63,73,874	66,25,000	66,75,000	67,50,000	

VI.—Provincial Rates—

Public Works Cess	44,43,153	45,50,000	45,04,000	46,00,000	Increase due to the completion of revaluations in the districts of Dinajpur, Backergunge, &c.
General rate for management of private estates ..	1,41,545	1,80,000	2,18,000	1,97,000	Estimates based on the actual demands in the estates under Government management.
Total ...	45,84,698	47,30,000	47,22,000	47,97,000	

VII.—Customs—

Sea Customs—Miscellaneous	87,644	85,000	1,05,000	2,05,000	Increase due to inclusion of overtime and holiday fees realized for payment to Preventive Officers. Hitherto these receipts were not incorporated in the Government accounts.
Warehouse and wharf-rent	10,174	7,000	12,000	12,000	Based on actuals.
Miscellaneous—					
Fees for registration of cargo boats	298	1,000	1,000	1,000	
Other items	877				
Total Miscellaneous ...	1,175	1,000	1,000	1,000	
Total ...	98,993	93,000	1,18,000	2,18,000	

VIII.—Assessed Taxes—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Deductions by Government from salaries and pensions, &c.	5,07,236	4,95,000	5,55,000	5,55,000	
Deductions from interest on Government securities	12,647	15,000	15,000	15,000	
Deductions from salaries, &c., by local authority or company	57,034	55,000	62,000	62,000	
Deductions from profits of Railway Companies .	2,258	3,000	3,000	3,000	
Income-tax on securities of local authority or company	75,975	60,000	80,000	80,000	
Ordinary collections	42,57,029	42,32,000	43,05,000	43,05,000	
Penalties	23,387	25,000	25,000	25,000	
Miscellaneous	13,884	15,000	15,000	15,000	
Total ..	49,49,450	49,00,000	50,00,000	51,50,000	Increase due to the progressive revision of the assessment and general improvement in the administration of this head of revenue.
Provincial share (one-half)	24,74,725	24,50,000	25,30,000	25,75,000	

IX.—Forests—

I.—Timber and other produce removed from the forests by Government agency	3,83,558	31,300	31,000	22,000	The decrease is due to smaller demand for firewood by the Commissariat Department in Darjeeling owing to the absence of some of the troops. The actuals of 1897-98 include receipts from the sale of sleepers in Singhbhum.
II.—Timber and other produce removed from the forests by consumers or purchasers	7,71,106	8,59,800	8,93,000	9,03,000	
III.—Confiscated drift and waif wood ...	6,668	8,500	12,000	10,000	
IV.—Miscellaneous	27,953	28,400	35,000	25,000	
Total ..	11,89,285	9,28,000	9,71,000	9,60,000	
Provincial share (one-half)...	5,94,643	4,64,000	4,85,000	4,80,000	

X.—Registration—

Fees for registering documents	15,16,530	14,50,000	14,50,000	14,90,000	The receipts in 1897-98 were the highest on record owing to the registration of a large number of bonds, mortgages and deeds of sale in consequence of the prevailing scarcity
Fees for copies of registered documents	23,448	20,000	20,000	20,000	
Miscellaneous	40,186	40,000	40,000	40,000	
Total ...	15,80,164	15,10,000	15,10,000	15,50,000	
Provincial share (one-half)...	7,90,082	7,55,000	7,55,000	7,75,000	

XII.—Interest—

HEAD.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Class I.—Interest on advances to cultivators—					
On advances to cultivators under Land Improvement Loans Act	44,457	1,26,000	98,000	68,000	Calculated on the estimated outstanding mean balance.
On advances to cultivators under Agriculturists' Loans Act ...					
„ *II.*—Interest on advances under Special Laws—					
On Drainage and Embankment Advances	64,757	83,000	83,000	87,000	
„ *III.*—Interest on loans to landholders, &c. ...	1,577	1,000	8,000	13,000	
„ *IV.*—Interest on loans to Municipal and other Public Corporations (excluding Presidency Corporations)	1,38,563	1,62,000	1,36,000	1,71,000	Ditto ditto.
Interest on Government Securities	12,006	12,000	25,000	10,000	
Miscellaneous—					
Interest on arrears of Public Works Cess	45,970	39,000	45,000	42,000	
Interest on the Capital cost of His Honour the Lieutenant-Governor's house, &c.	1,267	1,300	1,000	1,300	
Interest on zamindari embankment recoveries, &c.	2,111	2,000	2,000	2,000	
Other items	1,847	700	2,000	1,700	
Total Miscellaneous	51,195	43,000	50,000	47,000	
GRAND TOTAL ..	3,12,555	4,27,000	4,07,000	4,02,000	

XVIA.—Law and Justice—Courts of Law—

Sale-proceeds of Unclaimed and Escheated Property	38,703	20,000	34,000	36,000	Based on actuals.
Court-fees realised in cash	51,507	50,000	50,000	50,000	
General Fees, Fines and Forfeitures	6,51,299	6,67,000	6,65,000	6,60,000	
Pleadership Examination Fees	46,549	40,000	55,000	45,000	
Miscellaneous	18,369	12,000	12,000	18,000	
Total ..	8,03,427	7,96,000	8,16,000	8,09,000	

XVIB.—Jails—

Jails	18,963	12,000	14,000	12,000	Based on the average actuals for the three years ending with 1897-98.
Jail Manufactures	10,07,607	9,94,000	10,66,000	10,88,000	Increase due to larger supplies to the Military and Police Departments.
Total ..	10,26,570	10,06,000	10,80,000	11,00,000	

XVII.—Police—

Police supplied to Municipal, Cantonment and Town Funds	10,024	9,000	11,000	10,000	Based on actuals.
Police supplied to Public Departments, private companies and persons	50,820	68,000	57,000	65,000	Includes recoveries on account of Punitive Police.
Presidency Police	90,317	93,000	89,000	90,000	Based on actuals.
Recoveries on account of Village Police	1,992	1,000	2,000	2,000	
Fees, Fines and Forfeitures	36,184	36,000	40,000	36,000	
Superannuation Receipts	3,035	5,000	3,000	4,000	
Miscellaneous	12,552	10,000	13,000	61,000	The estimate for 1899-1900 includes Rs. 48,000 for recoveries from Municipalities on account of police employed on plague duties.
Total ...	2,05,524	2,22,000	2,15,000	2,68,000	

XVIII.—Marine—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Sale-proceeds of vessels and stores	3,871	2,000	1,000	3,000	Based on actuals.
Registration and other fees	47,172	44,000	40,000	46,000	
Pilotage Receipts { Calcutta	10,13,485	8,78,000	10,48,000	9,74,000	The receipts of the years 1897-98 and 1898-99 were exceptionally high.
Pilotage Receipts { Chittagong	16,402	18,000		16,000	
Lead-money of Volunteers	4,004	6,000		4,000	
Total ..	10,84,434	9,45,000	10,98,000	10,45,000	
Miscellaneous.					
Deductions for mess-money	12,691	12,000	52,000	12,000	Based on actuals.
Contribution to life-boat establishment, Goalundo	170			200	
Marine survey	34,569	38,000		34,000	
Other items	8,147	5,000		8,800	
Total Miscellaneous .	54,477	55,000	52,000	55,000	
Total ...	11,38,911	10,00,000	11,50,000	11,00,000	

XIX.—Education—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
Fees, Government Colleges ... { General	1,78,289	1,70,000	2,11,000	1,73,000	Based on the average of the actuals for the three years ending with 1897-98.
Fees, Government Colleges ... { Professional ...	30,983	38,000		48,000	The increased provision is on account of fees to be realized from students of the Agricultural class opened in the Shibpur Engineering College.
Eden Hindu Hostel		...	... .	40,000	The fees from the boarders of the Eden Hostel were included under Schools, General, in the estimate for 1898-99. These are now separately shown in the account.
Fees, Schools, General	3,20,080	3,97,000	3,85,000	3,40,000	
" Schools, Special	12,503	17,000		13,000	
Contributions from Native States, private persons and municipalities	11,029	9,000	9,000	11,000	
Income from endowments	2,500	6,000	5,000	4,000	
Miscellaneous	23,950	25,000	45,000	35,000	Increased receipts are anticipated from Professors and students for the use of the electric light.
Total ...	5,88,343	6,02,000	6,55,000	6,64,000	

XX.—Medical—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
Medical School and College Fees	49,263	58,000	48,000	50,000	Based on actuals.
Hospital receipts	79,715	75,000	88,000	90,000	Increase anticipated for improvements in hospitals now being carried out.
Lunatic Asylum Receipts	25,031	24,000	18,000	27,000	Based on actuals.
Medicines sold by Civil Surgeons ..	56	.....	.....	500	
Contributions (from Municipalities and private persons)	38,960	39,000	41,000	37,000	Based on the average of the actuals for the three years ending with 1897-98.
Miscellaneous	5,909	4,000	5,000	5,500	
Total ...	1,98,936	2,00,000	2,00,000	2,10,000	

XXI.—Scientific and other Minor Departments—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
Botanic and other Public Garden receipts	5,016	6,000	5,000	5,200	
Veterinary and stallion receipts	5,568	9,000	9,000	9,800	Includes anticipated realizations on account of students boarding charges. The increased provision in 1899-1900, as compared with the sanctioned estimate of 1898-99, is due to the opening of a third-year class in the Veterinary School.
Cinchona plantation	1,78,370	1,83,000	1,30,000	1,50,000	This head is an uncertain factor depending greatly on the character of the season.
Receipts on account of experimental cultivation ...	1,807	2,000	2,000	2,000	Based on actuals.
Emigration fees	26,080	25,000	20,000	20,000	Estimate reduced with reference to the latest actuals of 1898-99.
Examination fees	3,336	6,000	4,000	5,000	
Miscellaneous	2	.....	.....	.....	
Total ...	2,20,699	2,31,000	1,60,000	1,92,000	

XXII.—Superannuations—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Deductions for Marine Pension Fund	8,290	8,000	9,000	8,000	Based on actuals.
Family subscriptions of Native members of the Covenanted Civil Service ...	1,620	2,000	2,000	2,000	
Contributions for Pensions and Gratuities—					
Of officers lent to Municipalities or Corporations	9,263	8,000		5,000	Based on actual demands as per registers in the Accountant-General's office.
Of officers lent to Foreign Service	23,843	30,000	48,000	41,000	
Of persons employed by the Court of Wards ...	10,171	8,000		6,000	
Refunds of Gratuities	333	.....	.....	.....	
Miscellaneous	40	.....	.....	... .	
Total ...	62,560	56,000	59,000	62,000	

XXIII.—Stationery and Printing—

Stationery receipts	10,326	1,000	10,000	10,000	Includes the value of forms supplied to private and Ward's estates.
Sale of Gazettes and other publications ...	92,589	93,000	96,000	95,000	Based on actuals.
Other press receipts	50,005	30,000	51,000	52,000	Includes cost of printing undertaken for private and Ward's estates.
Total ...	1,52,920	1,24,000	1,57,000	1,57,000	

XXV.—Miscellaneous—

Unclaimed deposits	4,40,961	3,70,000	4,78,000	4,10,000	The revised estimate is based on the actual amount likely to lapse at the end of 1898-99 according to the books of the Accountant-General. The estimate for 1899-1900 is based on the average of the actuals for the three years ending with 1897-98.
Treasure-trove	36	... ..	..	.....	
Sale-proceeds of Durbar presents .. .	12,784	10,000	12,000	11,000	
Sale of old stores and materials	1,04,308	45,000	50,000	45,000	The high actuals of 1897-98 include receipts from the sale of famine crops. The estimate for 99-1900 is based on the average of the actuals for the three years ending with 1896-97.
Sale of lands and houses, &c.	614	8,000	4,000	8,000	The normal annual receipts under this head in the year preceding 1897-98 amounted to Rs. 8,000 which has been adopted for the estimate of 1899-1900.
Fees for Government audits (of Municipal and Incorporated Local Funds)	59,081	43,000	64,000	68,000	Based on actual demands as in the registers of the Accountant-General.
Rents	21,438	19,000	23,000	23,000	
Miscellaneous fees, fines and forfeitures	15,410	30,000	10,000	18,000	Based on the average of the actuals for the three years ending with 1897-98. The receipts of the year 1897-98 and for the 12 months ending September 1898 were exceptionally low.
Miscellaneous	83,631	80,000	87,000	80,000	Based on the average of the actuals for the three years ending with 1897-98.
Contributions	28,624	80,000	25,000	24,000	Based on the actual demands taken from the registers of the Accountant-General. The estimate for 1898-99 included recoveries from Incorporated Local Funds towards the cost of Controlling and Account Offices. These are now shown under the adjusting head of "Contributions from Local."
Total ..	7,62,987	6,94,000	7,53,000	6,87,000	

XXIX.—Irrigation.—Major Works—(Direct Receipts).

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Orissa Canals	5,54,757	5,00,000	4,30,000	4,70,000	The increase in 1897-98 was due to recoveries of outstanding balances at the end of previous year and to increased area of land irrigated owing to heavy demand for water for irrigation purposes in Orissa and Bihar.
Midnapore Canal	2,75,636	2,58,000	2,28,000	2,36,000	
High Tidal Canal	92,210	80,000	75,000	70,000	
Sone Canals	12,66,974	8,64,000	10,17,000	9,25,000	
Total ...	21,89,577	17,02,000	18,00,000	17,01,000	

XXX.—Minor Works and Navigation in charge of the Public Works Department—

Irrigation and Navigation Works.				
Works for which Capital and Revenue accounts are kept—				
Saran Canal	3,602	2,000	3,500	2,000
Calcutta and Eastern Canals	4,26,380	4,60,000	4,45,000	4,43,600
Orissa Coast Canal	86,725	86,000	67,000	60,000
Total ...	5,16,737	5,48,000	5,15,500	5,05,900
Works for which only Revenue accounts are kept—				
Nadia rivers	89,043	1,20,000	1,00,000	1,12,700
Gaighatta and Buxi Khals	5,200	4,000	4,900	4,600
Total ...	94,243	1,24,000	1,04,900	1,17,300
Works for which neither Capital nor Revenue accounts are kept—				
Eden Canal	36,342	37,000	30,500	30,500
Teur Canal	314	.....	100	100
Total ...	36,456	37,000	30,600	30,600
Total Irrigation and Navigation Works ...	6,47,436	7,09,000	6,51,000	6,53,500
Agricultural Works.				
Works for which neither Capital nor Revenue accounts are kept—				
Government embankments	7,111	5,000	5,000	5,500
Takavi embankments under contract ...	3,809	2,000	4,000	4,000
Total Agricultural Works ...	10,920	7,000	9,000	9,500
GRAND TOTAL ...	6,58,356	7,16,000	6,60,000	6,63,000

XXX.—Minor Works and Navigation in charge of the Civil Department—

Recoveries on account of zamindari embankments under the contract system (on account of lands benefited by embankments)	1,07,584	1,03,000	1,03,000	1,06,000	Includes Rs. 3,000 on account of arrears expected to be realised in the district of Saran.
Recoveries on account of capitalised maintenance charges of the Rajapur drainage	18,776	19,000	19,000	24,000	Represents anticipated recoveries on account of maintenance, &c., charges of the Rajapur drainage in the district of Hooghly.
Miscellaneous receipts—					
Dankuni Canal	6,479	5,000	5,000	3,000	
Howrah drainage				2,000	
Rajapur drainage				3,000	
Total ...	1,32,839	1,27,000	1,27,000	1,38,000	

XXXII.—Civil Works in charge of the Public Works Department—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Total gross receipts	2,01,864	1,93,000	1,93,000	1,98,000	The increase in 1897-98 was due to increased profits from the Darjeeling-Himalayan Railway and to the recovery of rents of buildings in excess of the estimate.

XXXII.—Civil Works in charge of the Civil Department—

Tolls on ferries	2,46,840	2,45,000	2,98,000	2,70,000	The receipts in 1898-99 have been abnormally high. Based on the average of the actuals of the past three years.
Road tolls	55	.....	.....	.....	
Cemetery receipts	2,976	2,000	2,000	1,000	
Encamping grounds	112	.....	.....	100	
Miscellaneous	596	.....	.....	.....	
Staging bungalow	10,198	11,000	11,000	11,000	
Total ...	2,60,777	2,58,000	3,11,000	2,83,000	

APPENDIX B.

Bengal Provincial Expenditure in detail of minor heads.

[The figures in columns 4 and 5 are those accepted by the Government of India.]

1.—Refunds and Drawbacks—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Land Revenue (one-fourth)	24,741	16,000	12,000	15,000	There was a special payment of Rs. 45,000 in 1897-98 (of which ¼ was Provincial) made to Kumar Narpat Singh, of Porahat, representing the surplus balance of his estate which was confiscated and subsequently returned.
Stamps (three-fourths)	1,24,928	1,17,000	1,29,000	1,27,000	
Excise (one-half)	5,045	5,000	7,000	5,000	
Assessed Taxes (one-half)	10,844	16,000	12,000	12,000	
Forest (one-half)	574	..	.	1,000	
Registration (one-half)	1,719	2,000	3,000	2,000	
Provincial Rates	7,554	20,000	20,000	14,000	Based on the average of the actuals for the three years ending with 1897-98.
Customs (other than Export and Import duty) ..	1,900	2,000	2,000	2,000	
Total ...	1,77,391	1,78,000	1,85,000	1,78,000	

2.—Assignments and Compensations—

Malikana	1,03,472	1,05,000	1,34,000	1,74,000	Provision has been made in the estimate for 1899-1900 for payment of arrear claims for 1898-99.

3.—Land Revenue—

Survey and Settlement	7,35,994	4,65,000	5,23,000	3,07,000	The increase in 1897-98 was due to the payment of compensation for dearness of provisions, and to increased charges for travelling allowances of officers for supervising the famine relief operations. The actuals also include the charges for the administration of the South Lushai Hills. The increase in 1899-1900 is due to the increase in the number (10) of Assistant Magistrates and their establishment.
Charges of District Administration	30,71,373	30,02,000	30,14,000	30,27,000	
Management of Government Estates	4,69,304	4,94,000	4,54,000	5,04,000	Increased provision made in view of increased receipts expected in 1899-1900. The grant for improvements was not fully utilised in 1898-99.
Land Records and Agriculture	76,250	84,000	82,000	90,000	The increase is partly due to the increase in the pay of the Director of Land Records and partly to smaller debit of the establishment to Bihar settlement operations.
Total ...	43,53,321	40,45,000	40,73,000	39,28,000	

6.—*Stamps*—

Heads.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	Remarks.
1	2	3	4	5	6
Superintendence	79,901	86,000	81,000	79,000	
Charges for the sale of general stamps	1,12,966	1,10,000	1,06,000	1,15,000	Larger estimate based on the anticipated increase in receipts.
Charges on sale of court-fee stamps	1,28,126	1,28,000	1,23,000	1,22,000	
Discount on plain paper	16,077	16,000	16,000	16,000	
Stamp paper supplied from Central Stores	3,45,351	3,74,000	3,39,000	3,50,000	
Total ...	6,83,531	7,14,000	6,65,000	6,92,000	
Provincial share (three-fourths)	5,12,648	5,36,000	4,99,000	5,19,000	

7.—*Excise*—

Superintendence	66,326	74,000	70,000	78,000	Part of the actual charges has been debited to District Executive Establishment in 1897-98.
Presidency establishment	88,201	91,900	82,000	91,600	
District Executive establishment	3,85,518	3,80,000	3,73,000	3,93,000	The estimate for 1899-1900 includes a provision of Rs. 10,000 for the supply of uniforms to the detective staff, and a similar provision for the strengthening of that staff in Bihar in connection with the system of tree-tax on toddy trees.
Distilleries	1,31,942	1,46,100	1,40,000	1,42,400	
Total ...	6,73,986	6,92,000	6,65,000	7,00,000	
Provincial share (one-half)	3,36,993	3,46,000	3,32,000	3,50,000	

8.—*Provincial Rates*—

Collection of rates and cesses		36,500	36,000	36,500	Increased provision made for revaluations sanctioned in several districts.
Valuation and revaluation		22,500	14,000	33,500	
Total ...	53,604	59,000	50,000	70,000	

9.—*Customs*—

Calcutta.					
Salaries	63,086	58,364		61,137	The increase in 1897-98 was for higher salary drawn by the Collector.
Collector's Establishment	1,75,486	1,80,360		1,81,043	
Appraising Establishment	82,776	86,600		87,020	
Preventive Establishment	3,51,942	3,65,680		3,61,304	
Allowances	17,950	11,200		1,34,400	Provision has been made for payment of overtime fees. There is a corresponding increase in the receipt side.
Supplies and Services	33,772	27,700		34,900	
Contingencies	21,655	22,360		22,396	
Total Calcutta ...	7,46,618	7,52,324		8,82,100	
Balasore	7,413	7,000		7,000	
Chittagong	25,708	27,676		29,200	
Cuttack	7,800	7,800		7,800	
Dacca	716	800		700	
Puri	1,534	1,500		1,600	
				9,28,400	
Deduct—For rounding ...	.....	.....		400	
Total ...	7,89,789	7,97,900	7,87,000	9,28,000	

10.—*Assessed Taxes*—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Collection of Income-Tax	1,89,776	1,92,000	1,92,000	1,94,000	The estimate has been framed in accordance with sanctioned scale.
Provincial share (one-half)	94,888	96,000	96,000	97,000	

11.—*Forests*—

A.—Conservancy and Works.					
I.—Timber and other produce removed from the forests by Government agency	1,98,432	19,000	17,300	14,900	The increased outlay in 1897-98 was for cutting and delivering sleepers.
II.—Timber and other produce removed from the forest by consumers or purchasers	53,528	62,000	59,600	62,800	
III.—Confiscated, drift and waif wood	1,905	2,800	3,000	3,000	
VI.—Live-stock, stores, tools and plant	11,970	10,900	11,200	26,800	The estimate includes a provision of Rs. 16,500 for the cost of a steam-launch for the Chittagong Division.
VII.—Communications and buildings	51,327	82,200	78,000	78,900	
VIII.—Demarcation, improvement and extension of forests	35,218	41,800	40,400	41,100	
IX.—Miscellaneous	3,723	2,800	4,500	3,500	
Total A—Conservancy and Works ..	3,52,503	2,21,000	2,14,000	2,31,000	
B.—Establishments.					
I.—Salaries	2,42,472	2,53,100	2,49,500	2,75,200	Provision has been made for the sanctioned scale of appointments and for a new officer expected from England. The decrease in the revised estimate for 1898-99 is due to the absence of officers on leave, to two supernumerary Assistant Conservatorships having been absorbed in consequence of the transfer of two officers from this province, and a few vacancies in the subordinate forest establishment not having been filled up and others filled up by subordinates on lower pay.
II.—Travelling allowances	38,430	35,400	40,600	40,000	
III.—Contingencies	20,032	15,500	13,900	13,800	
Total B—Establishments ...	3,00,934	3,34,000	3,04,000	3,29,000	
GRAND TOTAL OF EXPENDITURE ...	6,53,437	5,55,000	5,18,000	5,60,000	
Provincial share (one-half)	3,26,718	2,77,000	2,59,000	2,80,000	

12.—*Registration*—

Superintendence	52,276	55,000	52,000	53,000	
District charges	8,56,056	8,32,000	8,48,000	8,75,000	Increased provision made in view of the gradual expansion of the operations of the Department.
Total ...	9,08,332	8,87,000	9,00,000	9,28,000	
Provincial share (one-half)	4,54,166	4,44,000	4,50,000	4,64,000	

13.—*Interest on Ordinary Debt*—

Interest on Provincial advance and loan account ...	2,26,631	2,48,000	2,49,000	2,51,000	Based on the estimated mean outstanding balance of loans carrying interest at 3½ per cent. per annum.

15.—Post Office—

Heads.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	Remarks.
1	2	3	4	5	6
Conveyance of Mails, South Lushai Hills	2,052	.....	.....	.....	Transferred to Assam from the 1st April 1898.
Dák establishment	2,605	3,000	3,000	3,000	
Total ..	4,657	3,000	3,000	3,000	

18.—General Administration—

Salary of Lieutenant-Governor	1,08,599	96,000	96,000	96,000	
Staff and household of Lieutenant-Governor	36,634	34,000	34,000	34,000	
Tour expenses	36,467	34,000	34,000	34,000	
Legislative Council	26,114	26,000	26,000	28,000	Increased provision made for allowance to the Reporter for increase in the number of Council meetings.
Civil Secretariate	5,91,161	5,65,000	5,95,000	5,75,000	Larger provision made for Supplies and Services and Contingencies with reference to actuals.
Board of Revenue	2,84,306	2,68,000	2,85,000	2,84,000	
Commissioners	6,01,665	6,33,000	6,34,000	5,89,000	The sanctioned estimate for 1898-99 included a special provision of Rs. 40,000 for the construction of a new steamer for the Chittagong Commissioner. The actuals of 1897-98 and the revised estimate for 1898-99 were high owing to privilege leave allowances.
Civil Offices of Account and Audit	62,409	51,000	47,000	55,000	Increased provision made for travelling allowances of the additional establishment sanctioned in 1898.
Total ...	17,37,355	17,24,000	17,51,000	16,95,000	

19A.—Law and Justice—Courts of Law—

High Court	11,57,835	11,56,000	11,12,000	11,65,000	The decrease in 1898-99 was mainly due to one of the appointments of Puisne Judges being vacant for eight months. Provision has been made in the estimate for 1899-1900 for the salaries of the full sanctioned number of Judges.
Law Officers	3,21,317	3,39,000	3,31,000	3,33,000	
Coroner's Court	6,956	8,000	8,000	8,000	
Presidency Magistrates, &c.	62,519	64,000	64,000	68,000	
Civil and Sessions Courts...	46,27,690	47,13,000	47,05,000	47,75,000	Increased provision has been made for the salary of an Additional District and Sessions Judge and for increased establishments.
Courts of Small Causes	1,64,876	1,72,000	1,63,000	1,72,000	
Criminal Courts	24,79,892	24,13,000	24,41,000	24,63,000	Increased provision for Additional Assistant Magistrates and Collectors.
Pleadership Examination Charges	13,352	16,000	16,000	20,000	
Refunds	76,230	90,000	75,000	80,000	Based on actuals of past three years.
Total ...	91,11,867	89,73,000	89,15,000	90,74,000	The actuals of 1897-98 included payments for strain allowance which has been stopped from 1898-99.

19B.—Jails—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
	2	3	4	5	6
Jails—					
Superintendence	50,858	54,000		50,000	
Establishments	4,97,201	4,99,000		5,27,000	Increased provision made for improvement of the Warder establishment.
Jail Dietary Charges	6,88,725	5,54,000		5,34,000	The actuals of 1897-98 were high owing to the dearness of provisions.
Hospital Charges	83,902	76,000		80,000	
Clothing and Bedding of Prisoners	86,378	89,000		88,000	
Sanitation Charges	38,068	31,000		35,000	
Charges for moving Prisoners	61,643	52,000		54,000	
Miscellaneous Services and Supplies	1,09,590	1,13,000		1,15,000	
Allowances	30,888	10,000		8,000	
Contingent Charges	57,713	43,000		41,000	
Extraordinary Charges for Live-stock and Tools and Plant	31,846	18,000		21,000	
Charges for Police Custody	13,445	9,000		9,000	
Total Jails ...	17,29,960	15,38,000	16,00,000	15,62,000	The increase in 1898-99 is partly under Clothing and bedding of prisoners and partly under Dietary charges.
Jail Manufactures	7,86,777	8,22,000	7,19,000	8,78,000	Increased provision made in 1899-1900 under Raw materials with reference to anticipated increase in receipts from larger demands from Military, Police, and Excise Departments.
Refunds	823	.....	1,000	1,000	
GRAND TOTAL ..	25,17,550	23,50,000	23,20,000	24,41,000	

20.—Police—

Presidency Police	7,86,889	7,64,000	7,70,000	8,19,000	The actuals of 1897-98 include payments of grain allowance, while the estimate for next year includes provision for strengthening the different branches for the Calcutta Police force.
Municipal Police	50,872	46,500	48,000	49,000	
Superintendence	1,59,270	1,58,500	1,65,000	1,58,000	
District Executive Force	49,17,576	45,91,500	47,10,000	48,12,000	The high actuals under this head also include grain compensation allowance. The estimate for 1899-1900 includes increased provision for the gradual substitution of Sub-Inspectors for Head Constables in accordance with the recommendations of the Police Commission and also temporary police force employed on plague duty.
Village Police	19,915	65,000	20,000	39,000	
Special Police	3,43,654	1,30,500	1,37,000	1,44,500	The actuals of 1897-98 included the charges of the South Lushai Hills police transferred to the Assam Administration, with effect from 1st April 1898.
... ...	1,29,263	1,33,000	1,29,000	1,37,000	Increased provision made with reference to opening of new railways and extensions of railways
... ...	4,022	5,000	5,000	4,000	
... ...	2,526	3,000	2,000	2,500	
Total ...	64,12,987	58,97,000	59,86,000	61,65,000	

21—Marine—

Heads.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	Remarks.
1	2	3	4	5	6
Salaries and allowances of officers and men afloat ...	53,880	60,000	53,000	60,000	
Victualling of officers and men afloat	18,898	23,000	18,900	19,100	
Purchase of marine stores and coal for the building, repairs, and outfit of ships and vessels ...	78,506	90,000	82,000	90,000	Based on the actuals of the past five years.
Purchase and hire of ships and vessels	1,700	20,000	10,000	10,000	
Pilotage, pilot establishments and vessels	6,28,180	5,36,000	5,97,000	6,18,000	Increased provision made in view of the increase in receipts.
Marine establishments	87,675	88,000	85,000	83,400	
Subsidies to steam-boat companies	20,000	20,000	20,000	20,000	
Miscellaneous	39,770	20,800	30,000	40,500	A provision of Rs. 11,800 has been made for grant to the Chittagong Port Fund and Rs. 9,000 to the Balasore Port Fund.
State Yacht establishment	4,698	5,700	5,000	5,700	
Light-house and light-ship	... ..	12,000	12,000	.....	
Refunds	1,084	500	.....	1,300	
Total ..	9,46,941	* 8,91,000	9,22,000	9,00,000	

22.—Education—

Direction	67,282	66,000	63,000	62,000	
Inspection	3,66,406	3,60,000	3,69,000	3,74,000	
Government Colleges, General	5,12,012	5,22,000	4,80,000	5,28,500	Increase due chiefly to the provision made for the purchase of instruments for the Astronomical Observatory, Presidency College.
Ditto Professional	1,75,493	1,86,000	1,84,000	2,15,000	Increase due chiefly to larger provision made on account of boarding charges, for Experimental Farm and for additional instructive staff of the Civil Engineering College.
Government Schools, General	5,89,242	6,59,000	6,00,000	6,48,000	The excess in comparison with actuals is due chiefly to a provision made for the new Kurseong Girls' Boarding School, and to the larger provision for the "Victoria Boarding School, Kurseong." The decrease in 1898-99 was due to a smaller charge in Kurseong Boarding School and for savings in the grant for expenditure on extra establishments for net grant schools.
Ditto, Special	1,82,305	1,96,000	1,72,000	1,83,000	The charges for the training of teachers and on account of stipends to pupil teachers of Normal Schools were smaller than anticipated in 1898-99.
Grants-in-aid	6,05,552	6,00,000	6,20,000	6,10,000	
Scholarships	1,99,907	1,90,000	1,99,000	2,00,000	
Miscellaneous	66,511	1,17,000	90,000	1,85,000	Increase due chiefly to larger provision made on account of "Rewards to teachers and pupils of Sanskrit Tols." The excess in comparison with actuals is due chiefly to a provision being made on account of Hostel charges.
Refunds	580	1,000	1,000	1,000	
Total ...	27,66,278	28,97,000	27,80,000	29,47,000	

24.—Medical—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Medical Establishment	6,56,578	7,03,500	6,28,000	6,78,000	Savings are expected in 1898-99 under Salaries of District Medical Establishment and under Reserve Medical Officers and Subordinates.
Hospitals and Dispensaries	4,94,907	5,13,700	4,75,000	5,34,000	Increase due chiefly to increased provision under Diet and clothing of patients and increased provision for bedding and other equipments of the General Hospital. The decrease in 1898-99 is mainly under salaries under General Hospital and mufassal hospitals.
Sanitation and Vaccination	1,79,782	2,04,000	1,77,000	1,96,000	Savings expected under Salaries and Allowances in 1898-99.
Grants for medical purposes	2,00,350	62,200	1,68,000	62,000	The actuals of 1897-98 include Rs. 2,51,000 for charges on account of plague.
Medical Schools and Colleges	2,97,433	3,10,000	2,90,000	3,17,000	Savings are expected under salaries of Medical College in 1898-99.
Lunatic Asylums	1,16,407	1,29,000	1,21,000	1,30,000	
Lock Hospitals	14,678	15,000	14,000	15,000	
Chemical Examiner	27,713	30,000	28,000	31,000	
Refunds	1,492	1,700	2,000	2,000	
Total ...	20,49,340	19,70,000	19,63,000	19,65,000	

25.—Political—

Entertainment of Envoys and Chiefs	1,383	2,000	1,000	2,000	
Durbar presents and allowances to Vakils, &c. ...	16,226	14,000	34,000	17,000	Increased provision made with reference to actuals.
Miscellaneous	6,152	2,000	5,000	2,000	The actuals of 1897-98 include payments made in the South Lushai Hills.
Total ..	23,761	18,000	40,000	21,000	

26.—Sientific and other Minor Departments—

Provincial Museums	19,054	19,000	19,000	23,000	Provision made for regrant of savings in the grant for establishment.
Imperial Institute	252	500	.....	500	
Donations to Scientific Societies	10,500	16,000	16,000	14,000	Decrease due to the withdrawal of the temporary grant to the Buddhist Text Society.
Experimental cultivation	10,269	14,000	10,000	9,500	The charges for Sibpur Farm have been transferred to the Civil Engineering College in the Education Budget.
Cinchona Plantation	1,56,128	1,71,000	1,36,000	1,69,200	Savings anticipated under Temporary establishment and Supplies and Services in 1898-99.
Public Exhibitions and Fairs	1,689	2,500	4,000	2,900	
Veterinary and Stallion Charges	27,380	34,800	33,000	39,000	Increase in establishment and boarding charges.
Botanic and other Public Gardens	1,19,921	1,22,300	1,12,000	1,18,000	Savings are expected under Supplies and Services in 1898-99.
Emigration	22,064	24,100	24,000	25,600	
Inspector of Factories	23,822	22,400	25,000	24,400	
Census	1,227	1,500	....	1,500	
Registration of Railway Traffic	10,713	6,400	9,000	7,500	
Registration of River-borne Traffic	15,246	17,800	13,000	5,000	
Provincial Statistics	2,275	2,500	8,000	17,400	
Examinations	5,212	5,500	6,000	5,500	
Inspector of Explosives	1,382	2,100	2,000	2,200	
Miscellaneous	3,500	2,000	1,000	2,000	
Refunds	653	600	1,000	600	
Total ...	4,41,227	4,65,000	4,19,000	4,67,000	

29.—Superannuations—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Superannuation and Retired Allowances	20,09,343	20,48,000	20,92,000	21,52,000	Increased provision made in view of the gradual annual increase in the past five years.
Compassionate Allowances	15,475	22,000	14,000	22,000	
Gratuities	7,092	7,000	7,000	7,000	Based on actuals.
Marine Department Pensions	42,153	40,000	38,000	49,000	The estimate for 1899-1900 is based on actual claims as per registers of the Accountant-General's office.
Refunds	79	.. ...	.....	.....	
Total ...	20,74,040	21,20,000	21,51,000	22,30,000	

30.—Stationery and Printing—

Stationery Office at the Presidency	1,59,225	1,56,000	1,52,000	1,55,000	Savings are expected under Supplies and Services and Contingencies in 1898-99.
Ditto purchased in the country	60,510	62 000	62,000	62,000	
Government Presses	2,55,206	3,54,000	3,70,000	3,59,000	
Printing at private Presses	4,312	1,000	8,000	6,000	
Stationery supplied from Central Stores	3,89,942	5,42,000	5,52,000	5,60,000	
Refunds	10,152	1,000	1,000	1,000	
Total ...	11,79,347	11,16,000	11,45,000	11,46,000	

32.—Miscellaneous—

Travelling allowances to officers attending examinations	2,076	3,000	3,000	3,000	Based on actuals.
Rewards for proficiency in Oriental languages, and allowance to Language Examination Committee...	6,280	6,000	2,000	6,000	
Cost of books and publications	592	1,000	1,000	1,000	
Donations for charitable purposes	99,088	99,700	1,00,000	1,09,500	
Charges on account of European vagrants	6,564	6,300	6,000	7,000	
Rewards for destruction of wild animals	15,973	18,000	11,000	16,000	Based on actuals.
Petty establishments	31,783	37,000	30,000	39,500	Increased provision made for larger requirements for Khedda establishment.
Special Commissions of Enquiry	6,822	.....	1,000	6,000	A small provision has been made to meet charges likely to occur in the year.
Irrecoverable temporary loans written off	415	4,000	3,000	3,000	
Charges for search of hidden treasure	244	..	.....	.....	
Rents, Rates, and Taxes	24,897	29,000	27,000	28,000	
Contributions	382	16,000	. ..	15,000	Provision made for contribution to Telegraph Department for the telegraph line from Demagri to Chittagong.
Miscellaneous and unforeseen charges	20,250	8,000	13,000	6,000	
Miscellaneous refunds	25,902	10,000	10,000	16,000	Based on the average of the actuals for three years ending with 1897-98.
Extraordinary charges	556	.....	... .	.....	
Total ...	2,39,621	2,38,000	2,07,000	2,35,000	

42.—Irrigation—Major Works—(Working Expenses)—

Orissa Canals	5,07,946	4,68,000	4,67,000	4,46,000	There was larger expenditure in 1898-99 for repairs to damages done by the floods in 1898.
Midnapore Canal	2,30,683	2,59,000	2,96,843	2,82,000	
Hijili Tidal Canal	38,446	61,000	54,220	53,000	
Sone Canals	5,74,779	5,64,000	5,92 437	6,12,000	
Total ...	13,11,856	13,67,000	14,10,000	13,80,000	

42.—Irrigation—Major Works—(Interest on Debt)—

HEADS.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	REMARKS.
1	2	3	4	5	6
Orissa Projects	10,23,652	10,24,000	10,23,354	10,22,700	
Midnapore Canal	3,29,593	3,29,000	3,29,690	3,30,500	
Hijili Tidal Canal	71,820	72,000	71,820	71,800	
Sone Projects	10,35,881	10,34,000	10,32,226	10,31,000	
Total ...	24,60,946	24,59,000	24,57,000	24,55,000	

43—Minor Works and Navigation in charge of the Public Works Department—

IRRIGATION AND NAVIGATION WORKS.					
Works for which Capital and Revenue accounts are kept.					
CAPITAL.					
Works in Progress.					
Calcutta and Eastern Canals	4,28,481	1,36,800	1,30,000	.....	
Midnapore Canal	5,043	.....	.....	.....	
Hijili Tidal Canal	300	.....	.....	...	
Orissa Coast Canal	19,020	14,200	21,102	. .	
Orissa Canals	61,237	1,14,600	90,105	66,700	
Sone Project	27,387	18,700	18,700	28,700	
Damodar Canals	−1,200	.....	.....	. .	
Saran Canals	9,821	.. ..	.. ..	..	
Land charges for famine relief works in Champaran and Muzaffarpur districts.	....	.....	68,648	.....	
Total Capital ..	5,50,669	2,84,800	3,18,555	95,400	
REVENUE.					
Orissa Coast Canal	59,451	72,000	74,994	1,23,000	
Calcutta and Eastern Canals	1,97,290	1,71,000	1,90,074	2,48,200	
Saran Canals	16,546	10,000	2,800	600	
Total Revenue ..	2,73,287	2,53,000	2,68,468	3,71,800	
Total Works for which Capital and Revenue accounts are kept	8,23,956	5,37,300	5,87,023	4,67,200	
Works for which only Revenue accounts are kept.					
WORKS IN PROGRESS.					
Nadia rivers	1,02,498	1,29,000	1,19,409	1,35,000	
Gaighatta and Buxi khals	655	1,300	1,200	1,300	
Total Works for which only Revenue accounts are kept	1,03,153	1,30,300	1,20,609	1,36,300	
Works for which neither Capital nor Revenue accounts are kept.					
WORKS IN PROGRESS.					
Eden Canal	67,444	40,500	68,818	36,000	
Teur Canal	.....				
Madhubani Canal	6,471				
Champaran Canal	−662				
Total Works for which neither Capital nor Revenue accounts are kept	73,253	40,500	68,818	36,000	
Total Irrigation and Navigation Works ...	9,99,762	7,17,100	7,75,950	6,39,500	
AGRICULTURAL AND DRAINAGE WORKS.					
Works for which neither Capital nor Revenue accounts are kept.					
WORKS IN PROGRESS.					
Government embankments and works for the improvement of Government and escheated estates	5,52,453	7,65,900	7,27,050	8,44,500	
Midnapore takavi embankments under contract ...					
Gandak Takavi embankments under contract ...	1,54,503				
Works in charge of Civil Officers					
Total Agricultural ...	7,06,956	7,65,900	7,27,050	8,44,500	
Total 43.—Minor Works and Navigation ...	17,06,718	14,83,000	15,03,000	14,84,000	

43.—Minor Works and Navigation in charge of Civil Department—

Heads.	Actuals, 1897-98.	Budget Estimate, 1898-99.	Revised Estimate, 1898-99.	Estimate, 1899-1900.	Remarks.
1	2	3	4	5	6
Embankments under the contract system—					
Establishments	1,444	1,452	1,000	1,452	
Contingencies	47	48	...	48	
Maintenance charges of the Howrah and Rajapore drainages	2,352	11,544	4,000	3,852	Represents provision for the combined office establishment of the Howrah and Rajapore drainages at a cost of Rs. 321 per month. The provision made in the estimate of 1898-99 included the salary of the Drainage Deputy Collector, Hooghly, which is being adjusted in the Public Works Department.
Compensation for dearness of provisions	27	....	....	.....	
Travelling allowance	89	...	....	.....	
Refund	120	...	..	.....	
		13,544		5,352	
Add or *Deduct* for rounding ...		−344		+648	
Total ...	4,079	13,000	5,000	6,000	

45.—Civil Works in charge of the Public Works Department—

Original Works	11,55,503	12,27,000	12,60,000	12,86,000	
Repairs	12,55,000	11,00,000	10,00,000	11,90,000	
Establishment	7,10,746	8,40,775	7,60,000	8,77,766	
Tools and Plant	24,295	29,225	30,000	25,234	
Suspense	−28,030		10,000	.....	
Total ...	31,16,704	32,06,000	30,60,000	33,59,000	

45.—Civil Works in charge of the Civil Department—

Ferry charges	2,021	10,000	37,000	7,520	
Refunds of ferry tolls	28,721	24,200		81,000	
Contributions to Excluded Local Funds and Municipalities	24,323	43,000	32,000	50,000	
Public Works, South Lushai Hills	30,739	.....	.....	.....	
Ditto Angul	30	....	.	.....	
Other Public Works	1,364	.....	...	.....	
Staging bungalows and encamping grounds	9,009	12,800	11,000	10,794	
Add for rounding	.....	.....	.....	686	
Total	1,02,807	90,000	80,000	1,00,000	
Special grant	..	.....	.....	14,00,000	

The Council adjourned to Saturday, the 15th April, 1899.

CALCUTTA;
The 28th April, 1899.

F. G. WIGAN,
Asst. Secy. to the Govt. of Beng.
Legislative Department.

Reg. No. 12gG—300—29-4-99.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 15th April, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble NAWAB BAHADUR SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble MR. M. FINUCANE, C.S.I.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble MR. J. PRATT.

The Hon'ble BABU NORENDRA NATH SEN.

The Hon'ble BABU SALIGRAM SINGH.

The Hon'ble BABU KALI CHARAN BANERJEE.

The Hon'ble BABU SURENDRANATH BANERJEE.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

NORMAL SCHOOL EXAMINATION.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government be pleased to state whether it is in contemplation to abolish the Normal School examination and Vernacular and Minor Scholarships examinations and to substitute Agricultural examinations therefor? Has the Director of Public Instruction in Bengal issued a Circular to this effect, asking the heads of the institutions of the above class and several educational officers to give their opinion on the matter?

The Hon'ble MR. FINUCANE replied:—

"There is no proposal before Government to abolish the Normal School examination and Vernacular and Minor Scholarships examinations and to substitute Agricultural examinations. The only Circular issued by the Director asked the opinions of Inspectors on the system of elementary, agricultural or primary education existing in the Central Provinces."

BARANAGORE MUNICIPALITY.

The Hon'ble BABU SURENDRANATH BANERJEE said—

(*1*) I have the honour to call the attention of the Government to the Notification issued in the Municipal Department directing the division of the Baranagore Municipality into two separate municipalities and to ask whether it is proposed to constitute the northern portion of the municipality into a municipality consisting exclusively of members appointed by the Government, although this part of the Baranagore Municipality has enjoyed the privilege of election ever since the Bengal Municipal Act of 1884 has been in force,—a privilege which they have exercised with credit to themselves and with benefit to the public interests. If so, having regard to the forfeiture of the franchise which the Notification will involve and for which there is apparently no ground, will the Government be pleased to re-consider this part of the order with a view at any rate to restore to the rate-payers in the proposed Kamarhati Municipality the right of electing their own representatives on the Municipal Board?

(*2*) Is it the case that it is proposed to allow nine Commissioners to the new Baranagore Municipality with a population of 22,000, whereas it is proposed to allow twelve Commissioners to the new Kamarhati Municipality with a population of 12,000? If these figures are correct, will the Government be pleased to consider the propriety of raising the number of Commissioners for the Baranagore Municipality.

The Hon'ble MR. BAKER replied:—

"On the recommendation of the Commissioners of the Baranagore Municipality at a meeting, a Notification was published in the Calcutta Gazette of the 4th November, 1898, declaring the Lieutenant-Governor's intention to subdivide

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Bolton.*]

the municipality into two parts. No orders have yet been passed as to whether the new Municipality of Kamarhati formed by the subdivision shall be inserted in Schedule I of the Bengal Municipal Act. But it has been ascertained that the mill population of this municipality amounts to about one-third of the whole, and that the taxes payable by the Kamarhati mill are also nearly one-third of the whole estimated income of the municipality, and it is doubtful whether the interests of the mill can be adequately secured under the elective system.

"The number of Commissioners to be allotted to the new Municipality of Baranagore to be formed by the subdivision will be determined when the recommendations of the Municipal Commissioners and the report of the Commissioner of the Division are received."

ARTICLE BY MR. STEEVENS.

The Hon'ble BABU SURENDRANATH BANERJEE said—

I have the honour to call the attention of the Government to an article written by Mr. Steevens of the *Daily Mail*, which was reproduced in the *Indian Daily News* of the 11th instant, and to ask what the views of the Government are with regard to the allegations of the writer, which are quoted in the margin, so far as they affect Bengal?

Prosecution and defence are alike masterly and elaborate forgeries, for the native—especially in cases where, as usual, both sides are to blame—will never be content without improving on the truth.

* * * * * *

Not a single native is to be trusted. The gaol authorities encourage prisoners to write petitions that they may get *backsheesh* from the dealers who provide the Government paper. The police are notoriously corrupt; the officials are corrupt; the officers of the Court are corrupt; the very native Magistrates and Judges are corrupt. A case is adjourned and adjourned and adjourned every time on a false pretext for months; meanwhile the Judge's jackals are out in the villages hinting to the suitor that, if he will but agree to this or that compromise, the cause shall be heard and settled at once. As a rule they take bribes from each side—just as Lord Bacon did—and then decide the case on its merits. The man of really scrupulous honesty takes the same bribe from each side and then returns the money to the loser.

The Hon'ble MR. BOLTON replied—

"The Hon'ble Member must be aware that the opinions of the Government are altogether at variance with those of the journalist to whose letter he calls attention."

[*Babu Norendra Nath Sen; Mr. Baker.*]

DRINKING-WATER IN THE MUFASSAL.*

The Hon'ble BABU NORENDRA NATH SEN said—

Having regard to the fact that the supply of drinking-water in the towns and villages of the mufassal being both inadequate and impure, especially in the hot season, has been the cause of a chronic state of ill-health, and of periodical outbreaks of cholera, will the Government be pleased to state what steps it has taken, or contemplates taking, to improve the water-supply?

The Hon'ble MR. BAKER replied:—

"I propose to answer this question, and that on the same subject of which the Hon'ble Raja Bahadur of Nashipur has given notice, together.

"Government is well aware of the importance of securing an adequate supply of good drinking-water both in towns and villages in the mufassal.

"Attention was drawn to the matter in the Resolution on the working of District Boards during 1894-95, in which it was laid down that, by way of making a beginning, every District Board should expend not less than Rs. 5,000 a year for the improvement of water-supply, either in the digging or improvement of wells or in the excavation or restoration of tanks to be reserved for drinking purposes only. It was suggested that the aid of voluntary Committees might be called in, as had been done in Noakhali, or that the allotments might be distributed in the form of grants-in-aid of village funds.

"At the same time every District Board and Municipality was required to make a kind of water-supply survey of the area under its jurisdiction, and to prepare two registers showing the existing sources of supply of every town or village containing more than 100 houses, together with information as to the purity or otherwise of every tank, well or stream, and its ownership.

"It was also explained to all Local Authorities that loans under the Land Improvement Loans Act of 1883 would be freely granted for the construction of wells, tanks and other sources of supply, and suggestions were made for the use of cheap tube-wells where local conditions were suitable.

"Some progress has been made under these orders. The expenditure incurred by local bodies on account of water-supply during the past three years has been as follows:—

Years.		Spent by Municipalities.	Spent by District Boards
		Rs.	Rs.
1895-96	...	43,536	51,975
1896-97	...	19,448	98,913
1897-98	...	51,308	1,39,770 "

THE EDUCATIONAL SERVICE.

The Hon'ble BABU NORENDRA NATH SEN asked—

(*a*) Will the Government be pleased to state (1) whether, as a result of the re-organization of the Educational Service, the number of officers in what is called the Indian Educational Service has not been considerably reduced, and whether there have not been in consequence constant transfers of officers from the inspecting to the teaching line and *vice versâ;* (2) also whether very junior officers, standing comparatively low in their respective grades, have not been appointed to act as Principals of first grade State Colleges in Bengal, such as the Krishnagar, Hooghly, Rajshahi, and Patna Colleges, and whether the efficiency of those Colleges has not been seriously affected thereby?

(*b*) Is it not a fact that Sir Alexander Mackenzie, the former Lieutenant-Governor of Bengal, himself regretted that "owing to the narrowness of the scale of the Provincial Service, as compared with the existing salaries," the prospects of officers belonging to that Service were very discouraging, and that though assurance was repeatedly given that no officer of the Provincial Service should suffer by the introduction of the new scheme, yet nothing has been done in this direction?

The Hon'ble MR. FINUCANE replied:—

"As a result of the re-organization of the Educational Services, in 1896 the number of officers in the Indian Educational Service, which is manned mainly by officers recruited in England, has been reduced from 41 to 27. A substantial increase was at the same time made in the number and pay of the more highly paid appointments in the Provincial Service, which is manned chiefly by natives of India. This scheme of re-organization took effect from the 1st August, 1896. Since the date of the re-organization five officers have been transferred from the

[*Mr. Finucane.*]

teaching to the inspecting line or *vice versâ.* These transfers were not made in consequence of the reduction in the staff of the Indian Educational Service, but in pursuance of the policy of giving officers training both in the Professorial and Inspectorial branches of the Service. Similar transfers had taken place before the introduction of the re-organization scheme.

"The Principals of the Colleges at Krishnagar, Hooghly, Rajshahi and Patna are all officers who have been in the Education Department for over twelve years; and the Principals of the Krishnagar and Rajshahi Colleges are respectively at the top of, and second, in their grade. The appointments to the Patna and Krishnagar Colleges were both made within the last six months. The Hooghly and Rajshahi Colleges have, since the appointment of their present Principals, shown better results than they did before.

"There is, so far as Government is aware at present, no reason to suppose that the re-organization scheme which reduced the number of Europeans and increased the number of Indians holding higher appointments in the Educational Service, has lowered the efficiency of the Department generally or that of the Colleges referred to in the Hon'ble Member's question in particular.

"Sir Alexander Mackenzie did observe that the prospects of officers in the *lower* grades of the Provincial Services were very discouraging. In answer to a similar question asked at the meeting of the 30th April, 1898, the Hon'ble Babu Surendranath Banerjee was informed that Sir Alexander Mackenzie had submitted proposals to the Government of India by which further benefits would be conferred on the lower grades of that Service; but the Provincial Services had already benefited by the re-organization to the extent of nearly Rs. 60,000 per annum, and the Government of India were unable to grant further concessions.

"The Government of India sanctioned the grant of personal allowances to such members of the lower grades of the Provincial Services as would have suffered actual loss under the new scheme, but considered that there was no ground for increasing these allowances from time to time on account of increments that might have accrued to particular individuals under the old system. Nobody has suffered actual loss by the introduction of the new scheme, while the previous pay of many was materially increased, and the prospects of all were improved by it."

ACCOUNTS OF STATE COLLEGES.

The Hon'ble BABU NORENDRA NATH SEN asked—

Will the Government be pleased to state whether it is not a fact that the accounts of different State Colleges have not hitherto been properly examined and audited, and whether, in consequence thereof, large defalcations have not recently taken place in the Presidency and Rajshahi Colleges respectively, and if so, what steps has the Government taken to have the accounts of the different State Colleges properly examined and audited in future?

The Hon'ble MR. FINUCANE replied:—

"Defalcations of Government money have taken place in the Presidency College. Rules for the efficient check and control of college accounts are being drafted by the Accountant-General, Bengal, in consultation with the Director of Public Instruction. No defalcations have occurred in the Rajshahi College. The head clerk of that Institution was dismissed for prevarication, untruth and dishonesty in regard to the keeping of accounts relating to various trust funds, but he made good the entire balance that should, according to his accounts, have been in his custody."

DACOITIES IN THE LOWER PROVINCES.

The Hon'ble BABU NORENDRA NATH SEN said—

The Government is aware of the increasing number of dacoities in the Lower Provinces, and the depredations committed frequently by a class of people known as Pathans, and the trouble and annoyance given by them to the people generally. Will the Government be pleased to state what steps it has taken to put down these dacoities and allay the mischief caused by these Pathans?

The Hon'ble MR. BOLTON replied:—

"The great prevalence of dacoities in the past three years received the early attention of the Government. Necessity for more vigorous action was impressed on the police, and special measures were taken in certain districts. The results have been satisfactory, on the whole, the total number of these offences in the last quarter having fallen to 131, as compared with 179 in the

corresponding quarter of 1898. The districts of Howrah, Hooghly, Pabna, Bogra, Mymensingh and Dacca, however, show an increase. In Howrah and Hooghly bad characters in the large up-country labouring population are believed to be chiefly concerned in the offences. A special police force will be employed to look after these men. Three extra Inspectors have already been deputed to the districts of Pabna, Bogra, and Mymensingh, which adjoin, for special work in connection with this crime. The number of cases in Dacca is not large, but special action will be taken there also, if necessary.

"The Inspector-General of Police states that Pathans have not been implicated to any great extent in serious crime, but in the past year they were believed to be concerned in several dacoities in the neighbourhood of Calcutta. Information regarding these men has been called for from each district, and the Government will consider what steps should be taken when all the reports have been received."

THE SUBORDINATE SERVICE.

The Hon'ble BABU NORENDRA NATH SEN said—

I have the honour to invite the attention of Government to the kind assurance conveyed in the marginally-noted reply given by the Hon'ble Mr. Finucane to a question by the Hon'ble Babu Surendranath Banerjee, and to ask whether, having regard to the very great disappointment caused by the recent orders of the Government of Bengal, reviving the Subordinate Service with effect from 1st October, 1898, instead of 1st August, 1896, the date of the re-organization of the other two branches of the Educational Services, Government will be pleased to re-consider the case of the hard-working and lowly-paid officers of the Subordinate Service and give effect to the scheme retrospectively from 1st of August, 1896.

"The Government of Bengal has asked the Government of India to allow the scheme, which has been placed in abeyance, to be resuscitated with retrospective effect: and as the interests of officers are, as far as possible, being safeguarded, no good would come of issuing a revised list according to the old Subordinate Service scale."

The Hon'ble MR. FINUCANE replied:—

"The Government of India sanctioned the introduction of the scheme with effect from 1st October, 1898, and held that there was not sufficient reason for giving it retrospective effect from 1st August, 1896."

[*Babu Norendra Nath Sen; Mr. Buckley; Raja Bahadur of Nashipur; Mr. Finucane.*]

THEFTS ON RAILWAYS.

The Hon'ble BABU NORENDRA NATH SEN asked—

Will the Government be pleased to take adequate precautions against the abstraction of articles from railway parcels in general, and particularly those containing fruits and vegetables, chiefly at certain stations on the Eastern Bengal State Railway and the Darjeeling-Himalayan Railway? Is it not a fact that the Station Master at Darjeeling became indebted, and decamped with his whole family by the first available train to defraud his creditors? Why did the present Station Master also resign, and why did he afterwards withdraw his resignation, while the booking-clerk stays on? How long has the latter been in the Booking and Parcels offices of the station? Is it not desirable, in the interests of the public, to prevent these clerks from forming undue intimacy with the railway sorters and others, by transferring them every four or five years?

The Hon'ble MR. BUCKLEY replied:—

"Precautions are taken to prevent, as far as possible, the theft of articles from parcels on the railways mentioned. The Darjeeling-Himalayan Railway has lately erected a fence at the Siliguri station to prevent theft from their trucks. The Government of Bengal is not aware of the facts concerning the Station Master and clerks referred to in the question, and has no authority to transfer or to control the staff of the Darjeeling-Himalayan Railway."

RENT RECEIPTS.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR asked—

Has the attention of the Government been drawn to the inconveniences felt both by the landlords and the tenants for want of a column "Ground of refusal, if any, by the payee" in the rent money-order form; and will the Government be pleased to modify the same accordingly?

The Hon'ble MR. FINUCANE replied:—

"The attention of Government has not hitherto been drawn to any inconvenience felt by either landlords or tenants for want of a column 'Ground of refusal' in the money-order form for rent receipt.

[*M. Finucane; Raja Bahadur of Nashipur; Mr. Baker.*]

"The form of money-order receipt is intended to furnish the necessary particulars in acknowledgment of the receipt of rent where it is accepted, and not grounds of refusal where it is not accepted. There is no reason to modify the form."

MUFASSAL DRINKING-WATER.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR asked—

Has the attention of the Government been drawn to the general outcry of "water" in the interior parts of the country as reported in the column of the *Amrita Bazar Patrika* of the 6th April? Will the Government be pleased to state what steps it proposes to take to remove the long-felt want of pure drinking-water in the mufassal?

The Hon'ble MR. BAKER replied:—

"I have replied to this question in connection with the Hon'ble Babu Norendra Nath Sen's Question No. I."

APPOINTMENT OF MEDICAL MEN FOR PLAGUE WORK.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR said—

Having regard to the outbreak of plague in Calcutta, and the probability of its being spread over in other districts of Bengal, and to the fact that there are many villages in the interior of the districts where no medical aid is available, will the Government be pleased to issue general instructions upon all the District Boards to appoint such number of medical men as are deemed necessary for the outlying places in their districts?

The Hon'ble MR. BAKER replied—

"The measures prescribed for preventing the importation of plague into towns and rural areas, and for dealing with it if it should appear, are set forth in Plague Regulations Nos. 10 to 13, dated the 8th February, 1898. These measures include the appointment of medical practitioners as Health Officers for localities which may be threatened or attacked by plague. It is the primary duty of these Health Officers to take all steps in their power to prevent plague infection from establishing itself, and to stamp it out where

it occurs. Wherever the staff already appointed is found insufficient, the local authorities are empowered to increase it: and, in the districts where outbreaks have occurred, they have shown themselves alive to the necessity of doing so. District Boards cannot reasonably be expected to provide medical attendance in all outlying villages; but whatever is necessary has been and will continue to be done."

BENGAL FINANCIAL STATEMENT FOR 1899-1900.

The Hon'ble MR. BAKER moved for the discussion of the Bengal Financial Statement for 1899-1900.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR said:—

"While winding up the budget discussion of the last year, Your Honour was pleased to express a hope in these words: 'I hope we are now at the beginning of more favourable series of seasons, and that as the year goes on, we shall find ourselves approaching another budget with lightened responsibilities and with increased hopes of financial receipts.' That hope, we are all glad, has been fully realised. There is a remarkable improvement in the receipts this year, and if for that we are grateful to the Providence which gave us timely rain and a bumper harvest, and to the Government of India which gave us a grant of 17 lakhs towards the funds of this Province, we are no less thankful to the Financial Secretary for the appropriate allotments he has proposed in the Financial Statement, which is before us to-day. Our thanks are specially due to the author of the Financial Statement for provision for refunding the large amount of money spent by the District Boards and Municipalities in connection with plague-prevention measures.

"In the last year Your Honour expressed, in this Council Chamber, your regret at the absence from non-official Members of any suggestions of greater economy in the administration of the Province. Your Honour then said: 'And I shall hope that next year we may receive from the non-official Members of this Council those suggestions as to greater economy in administration which we may reasonably hope to receive from them.' I shall avail myself of this suggestion of Your Honour's. I must say at the outset that it is extremely difficult in matters financial to offer suggestions which may be acceptable both

to the Government and the people at the same time. Besides, these Financial Statements are documents very carefully drawn up and the things in them very carefully put in proper position and light, and when the workmanship is by a masterhand, it is not an easy task to offer practical suggestions with a view to improve upon it.

"I wish to point out, however, that considerable reductions might be made in the expenditure for the administration of justice, if greater encouragements were given to the people to resort to arbitration. This may be done by improving the status of the village *panchayats* and giving them power to try petty cases, both civil and criminal, and to use their influence in bringing the parties to an amicable settlement of their difficulties. It is well known that at present respectable men are not drawn to take up village *panchayatships* for reasons I need not mention now; but if they were allowed to sit as arbitration courts to try petty cases, respectable persons, I believe, will be found willing to take up the work, and the work of the regular administrative body will be, as a consequence, considerably reduced. The number of cases to be tried by Munsifs and Subordinate Magistrates being reduced, necessarily there will be a reduction in the subordinate judicial staff, making thus considerable saving of money.

"In my opinion the effect of instituting village arbitration courts will be in two directions. There will be an economical saving of time as well as of money. At present complaints are made about how some of the Munsifs and Subordinate Magistrates are overworked. But, I believe, if village *panchayats* are allowed to sit as arbitration courts, the work of the Munsifs and Deputy Magistrates will be considerably reduced, and the ground of the complaints of their being overworked will be removed. I remember that during the period Mr. N. K. Bose was Magistrate of Noakhali, he used to send petty criminal cases to be amicably settled by the village *panchayats*, with the result of the people being satisfied and quite happy, while criminal cases considerably decreased in number in his district. As evidence that Government approved this method, I beg to quote the following few lines from the Bengal Government Resolution on the administration of the Chittagong Division of the year 1892-93:—

'The Commissioner reproduces a description given by Mr. Nanda Krishna Bose, the Magistrate of Noakhali, of the system adopted by him of referring a large proportion of

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complaints to the village *panchayats* for report under section 202 of the Criminal Procedure Code. Out of 4,193 complaints, 1,260, or about 30 per cent., were so referred. Of this number, 722 did not again come before the Courts, having been amicably settled in the villages, 313 were subsequently enquired into magisterially, and 225 are pending. In order to provide a safeguard against the abuse of power by *panchayats*, Mr. Bose makes it an essential condition of the system that cases in which the *panchayats* fail to bring about an amicable settlement, should invariably be enquired into magisterially. The Commissioner is of opinion that the system has no inherent excellence, and but few extrinsic virtues; but if, as is said to be the case, the *panchayats* command the confidence of the people, the Officiating Lieutenant-Governor would not discourage a system which seems to promote the amicable adjustments of petty difference and dispute. Mr. Greer adopted a similar method in Tippera with success, and mentions, as a point in favour of it, that the employment of *panchayats* tends to increase the importance of the office.'

"I pray that with Your Honour's permission this mode of settling disputes by village *panchayats* may where practicable be more extensively introduced and availed of by the District Officers.

"I see in the papers that His Excellency the Viceroy, in replying to an address presented by the Colonists at Layallpur in the Punjab, practically admitted the usefulness of the *panchayat* system of settling disputes by arbitration which I advocate. The Viceroy, while addressing the members of the deputation, spoke of the Colonisation Officer, Captain Popham Young, as one 'who, both by his ingenious and successful subdivision of squares upon principles that have been equally acceptable to the settlers and helpful to the administration, *by his institution of the admirable system of panchayats for settlement by arbitration of your local disputes* and by his paternal influence over the Colonists, has done so much for the rapid development of this Indian Utopia.' These are the words of the Viceroy as reported in the Telegraphic Summary in the *Englishman* of the 5th April. When the system has the warm approval of the Representative of Her Majesty the Queen-Empress of India, it is well worth a trial at least in some of the districts of Bengal.

"Passing away from the consideration of financial economy, I beg to express my heartfelt gratitude to Government for the increased provision in the budget under discussion for an additional grant of rupees fifty thousand in educational matters. I need scarcely mention here that the great body of conservative and orthodox Hindus of Bengal are extremely grateful to the Government for the encouragement it has been according to the Sanskrit

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language and literature as taught in the *tols*, and the increased provision made in the budget for the remuneration of examiners and for rewards of teachers and pupils of the Sanskrit *tols*, will really be considered as a boon of great value. I wish to draw your attention to a cognate subject—it is the desirability of giving suitable encouragement to men eminent in Bengali literature by conferring upon them pensions and honoraria, as is done in the most advanced countries of the world. And may I be pardoned if I speak with some feeling upon this subject? The story of the sad end of one of the greatest poets of Bengal, Michael Madhusudan Dutt, is known to every reader of Bengali literature, and just at this moment another great poet of Bengal, Babu Hem Chandra Banerjee, who is blind and old, and is living in Benares, having retired from public life, seems to me to be a person who would be fully entitled to a pension if there were any provision for such a thing in the budget. Private liberality such men are ever unwilling to accept, but a Government pension would be an honour which they would not refuse.

"In connection with the Educational grant, I may also remark that it would have been more satisfactory if the Government could see their way to grant larger amounts for scientific and technical instruction to the people of the country. The establishment of a Veterinary institution and provision for increased expenditure for its improvement is a welcome measure for which the people cannot be too grateful. In an agricultural country like our Province, where cattle are more useful than any other thing, multiplications of such institutions would be a great boon to the population, and, I hope, in the next budget, more liberal provision will be made with the view of granting Government aid to the Veterinary Schools with infirmaries that may be established in the mufassal towns either by the Local Boards, Municipalities or private persons.

"I am glad to observe that the expenditure on the head of Survey and Settlement has been considerably reduced in the revised estimate for 1898-99, and a further reduction is contemplated in the budget estimate for 1899-1900. But I regret that in some districts where survey work has commenced, the work of supervision and control is left in the hands of officers, who have very little practical knowledge of survey and settlement operations. If by incurring a little more expense the survey and settlement works could be placed everywhere in the hands of older and experienced officials a little

increased expenditure on that head, in my humble opinion, would not be without its value.

"It is stated in paragraph 17 of the Financial Statement, under the head of Law and Justice, that 'the receipts from magisterial fines declined up to 1898-99.' No reason is assigned for this decline in the budget statement. But as one possessing mufassal information upon the point, I shall hazard a reason which the Government may verify. It has become a fashion with some of the Deputy Magistrates to bind down both the parties to keep the peace when a complaint is made even of a cognizable offence On receiving a complaint, the Deputy Magistrate, if not to avoid the trouble and toil of trying a case, but at least to make the work short, makes it over to a police officer for report. The police officer, knowing the mind of the Deputy Magistrate, reports for binding down both the parties. The Deputy Magistrate issues a rule, and on the appointed day makes the rule absolute. The consequence is that very few trials are held, and there is a decrease in judicial fines. The complainant, if he is really an aggrieved party, thinks it hard to be bound down for the outrageous conduct of his antagonist; but as there is no appeal provided against the order of binding down, he sullenly submits to the order and tries his chance in the Civil Court, if there is a civil remedy in the matter. The higher criminal authorities are seldom cognizant of the doings of the Deputy Magistrate as there are no appeals against his orders in this class of cases, and a very insignificant number of them come under the revisional jurisdiction of the High Court. The lawyers practising before the Deputy Magistrate make a rich harvest on becoming sureties of the bound down parties, and it is not their interest to give publicity to the acts of the Deputy Magistrate. This, I humbly consider, to be one of the reasons for the decline of judicial fines, which also considerably contributes to the increase of civil litigations, for the disposal of which Government will be obliged to make a considerable outlay sooner or later. In this connection, with Your Honour's permission, I would further like to bring to your notice another matter which is very important to us as mufassal people. Every now and then we find in the Divisional Administration Reports remarks made by high Government officials, expressing regret for the growing tendency of mufassal zamindars to keep themselves away from their home and hearth, and pass their time in a city like Calcutta or in the hills. The practice is bad no doubt both on economical and social

grounds. But the reason why the zamindars prefer a distant town to their own place of business is not very difficult to find out. I know many such cases where Rajas and Maharajas and respectable Zamindars of mufassal, to avoid the disgrace and dishonour of being bound down for keeping the peace, were obliged to come down here and to make Calcutta their temporary homes. But in this matter I think my friend on the right (Hon'ble Raja Bahadur of Nashipur), who represents the zamindary interest of Bengal in this Council, will be able to give more light, if necessary."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR said:—"I do not wish to take up the time of the Council by any lengthy remarks, but with Your Honour's permission I should like to make a few observations. Before I proceed I have to congratulate the Hon'ble Mr. Baker for the very successful budget he has produced this year. The year is a prosperous one, and I hope it will end so. I am glad to find that our financial position has been much strengthened by a special grant of 17 lakhs made by the Government of India, out of which 14 lakhs have been allotted to several items of expenditure, leaving a balance of 3 lakhs, and that our mufassal local bodies have been much relieved from the charges they might have to incur owing to Plague by a grant of Rs. 1,10,000 made to them. But in my humble opinion local bodies should not be charged with any expense on account of Plague, as such charges do not come within the scope of their legitimate duties.

"We cannot but be grateful to Your Honour for the interest you are so kindly taking in the development of the technical education in Bengal, and I notice with pleasure that an additional amount of Rs. 14,000 has been provided for the Sibpur Engineering College. I do not mean to say that I prefer technical education to high education. But as our University is turning out a good number of graduates every year, and as the professions, both Law and Medicine, have been overcrowded, I think a new field is required to be opened for our youths to earn their livelihood, and I hope the Sibpur College will answer the purpose to a great extent.

"I find from the Financial Statement that this year may be closed with a balance of Rs. 19,37,000, including 3 lakhs out of 17 lakhs given by the Government of India. There will still be left a balance of Rs. 16,37,000, which shows signs of improvement in the finances. But so long as we cannot save more than 20 lakhs which we are bound to keep as the working balance

under the orders of the Secretary of State for India, and as long as Plague will be hanging over our heads, we cannot properly urge on the Government to increase any item of expenditure to any considerable extent.

"But there are one or two points which I should like to bring to the notice of the Government for favourable consideration. I find a good income is derived from our Law Courts by the sale of court-fees, realisation of fines, &c., and a large saving is effected after meeting all the necessary expenses on that account. I hope, therefore, the attention of the Government should turn towards relieving the grievances of comparatively poor suitors. The Civil Courts are generally inclined to act on the reports of their amins in the matter of surveys on boundary disputes; and as these officers are not adequately paid in proportion to the responsibilities entrusted to them, they are generally led to corruption. I, therefore, beg to urge that the status and pay of these officers be so raised as to place them above all temptations. As to other ministerial officers of the Government, they are undoubtedly very inadequately paid. The Hon'ble Mr. Risley also admitted at the time of the discussion of the last year's Financial Statement that the pay of the ministerial officers of the Government should be increased by 12½ per cent. Unfortunately nothing has been done as yet, but I hope the Government will be pleased to give effect to that proposal as soon as practicable.

"Then, Sir, as to the want of pure drinking-water in the mufassal, I cannot sufficiently describe the sufferings of the people; but as the Hon'ble Mr. Baker has just said in reply to the questions put by my friend the Hon'ble Babu Norendra Nath Sen and myself, what has been done in this respect, I do not like to add anything more for the present.

"There is one thing more to which I should like to draw the attention of the Government. It is said that a good many people living in the interior parts of the country are carried away every year by cholera and malarial fevers and that there are many villages where no medical aid could be available. Though there are hospitals and dispensaries in municipal towns where people resort to, yet it is impossible for the people living in the interior to come from long distances to the town for timely medical help. District Boards with their limited resources cannot be expected to do anything in that direction without material help from the Government: I, therefore, ask the Government to set apart a sum annually for the purpose, and thereby save the lives of many of Her Majesty's poor subjects."

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The Hon'ble BABU SURENDRANATH BANERJEE said:—"It has been remarked both in this Council and elsewhere that our debates on the budget estimates, whether in the Local or the Imperial Legislative Council, are more or less of an academical character and are infructuous for good or evil. I must say that I do not concur in that view, for if I did, I would not be here to lend countenance to the enactment of a farce, however brilliant it might be, and however exalted the auspices under which it was enacted. It is my opinion and, I may add, a part of my deliberate conviction, that perhaps it would have been better if the law permitted the Members of this Council to move amendments on the various items of the budget, and I look forward with hopefulness and expectancy to a modification of the law in this direction. I do not think that such a change of the law would weaken the hands of the Government or relax its authority. On the contrary, it would bring public opinion to a focus and call prominent attention to questions which deserve public criticism. All the same, I think that as matters stand now our discussions are fruitful of good result. The proceedings of this Council will bear out this view. On former occasions, I pleaded for an increase of pay to the menial servants of the Government, for the provision of house accommodation for Munsifs and for a more equitable distribution of the cost of collection of the Road Cess and the Public Works Cess, and some concessions have been made in these directions, though not to the extent I could wish for. There is another direction in which I think a considerable improvement can be made, and I now venture to make a suggestion in that respect. I understand that the Provincial Budget is submitted to the Imperial Government somewhere about the month of March. Could it not be arranged that the discussion which takes place in this Council should take place before the budget is submitted to the Government of India, so that the Supreme Government might have the views of both the official and non-official Members of Council before it in regard to the budget? Of course such an alteration of procedure would require the sanction of the Government of India; but if the Local Government strongly supports the recommendation, I do not think the Government of India would stand in the way.

"My hon'ble friend, the Raja of Tahirpur, has referred to the remarks made by Your Honour on the occasion of the discussion of the last budget statement. You expressed regret that the Members of this Council did not make any suggestions for economy. My hon'ble friend has stated two reasons why

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such suggestions are not made. In the first place, he thought that the budget was almost as perfect as it could be made. From that view of the matter, beg respectfully to differ. Great as is my admiration for the work of my hon'ble friend, the Financial Secretary, I cannot regard it as being above and beyond the reach of criticism. If it were, I would not open my mouth. In the second place, my friend observed that the suggestions of Hon'ble Members might not be acceptable to the Government. I beg to differ from him. I have had the honour of being associated with official Members of this Council in the Select Committee on the Municipal Bill, on which my hon'ble friend Babu Norendra Nath Sen and myself are in a hopeless minority, and yet I venture to say that we have been able to persuade the official majority to accept many of the views we have put forward. If our views are sound, if they are based on considerations of justice and equity, it is our duty to press them; and if we are persistent, I am bound to say that those views stand a good chance of being accepted. At the same time I must be permitted to point out the serious disadvantages under which we are placed in offering suggestions. The official Members of Council are more or less experts in the matters which come before us in the consideration of the budget. We are not. They are associated with the financial administration of some department or other of the Government. And in this connection I venture to make a respectful complaint, namely, that we are not provided with details in such amplitude and fulness as would enable us to make suggestions that might be useful and helpful to the Government. I cannot help making a contrast between the budget submitted by this Government and that of the Bombay Government. I hold in my hand the budget of the Bombay Government, and I placed it in the hands of the Hon'ble Mr. Baker for his information and guidance. I had ventured to hope that he would be able to assimilate the budget of the Bengal Government in the matter of detailed information to that of the Bombay Government. In that hope I have been disappointed. The Bombay Budget goes minutely into details. We have there about 20 pages devoted to details under the head of Education; we have in the budget before us only half a page on Education. We have in the Bombay Budget about 18 pages devoted to details in connection with the expenditure on Police; we have less than half a page here. With such meagre and scanty details, is it possible for the non-official Members of the Council to make

suggestions that would be useful and helpful to the Government? Supply us with details in all their amplitude, and then we may have it in our power to make suggestions which may help the Government to effect economies. In the Calcutta Corporation all the details are given in the budget prepared by the Executive, and having those details before them in their fulness the Commissioners are in a position to make suggestions which are useful to the Executive, and our suggestions often have the effect of reducing the burden of taxation. These are the observations of a general character which I desire to make.

"Last year we met under circumstances of great depression. The outlook before us was gloomy, and it was that outlook which determined the estimates. The estimates for 1898-99 closed with a cash balance of only Rs. 5,89,000; the cash balance as shown by the revised estimates is about 34 lakhs. That is an achievement of which any Government might well be proud, and a portion of the credit of that achievement undoubtedly belongs to my hon'ble friend the Secretary in charge of the Financial Department. There are increases on the side of receipts, decreases on the side of expenditure, and then there is the timely help of the Government of India. Increases in receipts and decreases in expenditure are all matters for congratulation; but sometimes one has to restrain this tone of exultation when there are items of increase in expenditure which are not calculated to advance the public interests. To two or three items of increase on the receipt side and reduction on the expenditure side in the revised estimates I desire to call attention. We have an increase of Rs. 50,000 in the Excise Revenue. To this matter I shall refer later on at greater length, when dealing with the budget estimates. Increase of receipts in connection with the Excise is always a matter which deserves very careful consideration. Then we have a sum of Rs. 74,000 representing an excess of revenue owing to larger sales of Jail manufactures. I hope and trust these Jail manufactures do not come in competition with articles manufactured by private parties, for if that were so, it would be in direct opposition to the declared policy of the Government. On the other hand, we have a saving of Rs. 58,000 under the head of Law Courts. I am not able to support any reduction of expenditure in connection with the Law Courts. If there is one thing more than another which has been insisted upon by Members from their places in this Council, it is the

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inadequate expenditure on our Law Courts. Government makes a large profit from what has been described as the sale of justice, and therefore the first charge on the surplus revenue derived from the Law Courts should be a charge that would ensure their increased efficiency. Another item in connection with the reduction of expenditure is a decrease of Rs. 1,17,000 in respect of Education, and the explanation is that there were over-estimates in respect of salaries. I should like to know if that is the whole of the explanation: if not, I should like to know how much is due to over-estimates and how much to other causes.

"Coming to the budget estimates for 1899-1900, the most prominent feature is that to which my hon'ble friend, Mr. Baker, has called attention, namely, the grant of 17 lakhs by the Government of India. We are grateful to the Government of India. In these hard times we have to be grateful for such small mercies, as are vouchsafed to us. But we ought to have had 23½ lakhs and not 17 lakhs under the rules of 1881. I think I speak the sense of the Members of this Council and, I may add, of the country at large when I say that we are very grateful to Your Honour for urging upon the attention of the Government of India the refund of the money still due in accordance with the rules laid down in 1881. I hope and trust that the principle then enunciated will yet be acted upon, for I understand that the question of the Provincial Contracts is still under the consideration of the Secretary of State.

"Sir James Westland's reply with reference to Your Honour's observations was that the Government of India had paid something like 12 lakhs of rupees in aid of the European General Hospital, and that if the Bengal Government would refund six lakhs of rupees, the accounts would be squared. As Your Honour pointed out, the hospital was a matter of Imperial concern, because it was a hospital, not only for Europeans residing in Bengal, but in Assam and other parts of India; and in fact all Europeans who belong to the Empire might resort to this hospital. However that may be, the country is grateful to Your Honour for your vindication of the claims of financial justice to the Province over whose destinies Your Honour presides.

"The proportions in which the 17 lakhs of rupees given by the Government of India were distributed were stated by the Hon'ble Mr. Baker in his speech at the last meeting of the Council. Of this, Rs. 7,40,000 have been devoted to meet the expenditure on account of Plague, of which Rs. 3,48,000 have been allotted

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to Calcutta, Rs. 2,58,000 for expenditure incurred under the ordinary plague regulations, and Rs. 90,000 for the contribution to meet the expenses of the camp at Chausa. I ask Your Honour to accept the principle that, as far as the expenditure at Chausa is concerned, the local bodies should be entirely relieved of it. It is truly a Provincial expenditure. The camp established at Chausa has been established with a view to prevent the importation of plague into the Province. A municipality lying 500 miles away would have only a remote interest in such an establishment.

"Then coming to the grant of Rs. 50,000 as the part of the allotment made over to the District Boards to relieve them from charges in connection with the collection of the Public Works Cess, I desire to call attention to certain very grave allegations made in a morning paper, yesterday, allegations to which I have already drawn the attention of the Hon'ble the Financial Secretary. The *Amrita Bazar Patrika* says:—

'The Government of Bengal, in 1879, under the Lieutenant-Governorship of Sir Ashley Eden, laid down the principle that, of the joint collection charges, two-thirds should be borne by the Boards, and *only one-third* by the Government! But his successors beat him: they refused to pay even the entire one-third!

'Having laid down the above unjust principle, the Government performed another extraordinary feat. If the reader will go through the reply of the Government he will find that Mr. Risley makes the following admissions:—

1. In 1897, the Bengal Government accepted the principle that one-third of the total cost of the joint collection would be borne by the Government.

2. The total charges for collecting the two cesses in 1879-80 were Rs. 1,61,041.

3. Government paid Rs. 44,500 as their share of the collection charges.

'So the Government agreed to pay one-third of the cost; but, it seems, it never struck them that one-third of Rs. 1,61,041, that is to say, if we divide the amount by 3, is is Rs. 53,680, and not Rs. 44,500! Government thus broke their own engagement, so unfair to the people, from the very beginning, and paid Rs. 9,180 less than what they had promised to pay.'

And again the *Patrika* says:—

'In 1879-80 the joint collection charges were Rs. 1,61,041, and Government paid Rs. 44,500.

'In 1894-95 the joint collection charges rose to Rs. 2,87,186, yet Government paid the same sum, that is, Rs. 44,500.

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'In other words, in 1894-95, though Government should have paid Rs. 95,729, which is one-third of Rs. 2,87,186, they paid only Rs. 44,500, or Rs. 51,229 less than what they ought to have paid.

'So there is no mistake about the two things: In 1879-80 Government forgot their arithmetic and paid Rs. 9,180 less than what was their due; and in 1894-95 they forgot it again and contributed Rs. 51,229 less than what they should have paid. That is to say, the first fit of forgetfulness of the Government in 1879-80 cost the cess-payers Rs. 9,000 and the second fit cost them Rs. 51,000, in other words, nearly six times more than the first!—Alas! Government never loses by its own forgetfulness, but it is the people who do so.

'Government, therefore, on its own admission, wrongfully took away Rs. 9,180 + 51,229 or Rs. 60,409 from the Cess Fund in 1879-80 and 1894-95.'

"These are allegations which, if capable of explanation, ought to be explained. The collections of the Public Works Cess come to about 41 lakhs, and the Road Cess to about the same sum. It strikes me as a matter of equity and fairness that instead of one-third, one-half of the charges incidental to the collection of the Public Works Cess should be borne by the Provincial Revenues. I think this view of the matter will commend itself to Your Honour's Government.

"Then, coming to the details in the budget-estimates for 1899-1900, the first point to which I desire to call attention is the receipts under the head of Excise. These receipts have steadily increased. The explanation which is given—I will not read the figures—is this, that the effects of the famine of 1896-97 have completely exhausted themselves, so far as this particular branch of the revenue is concerned. With all respect to my hon'ble friend, Mr. Baker, I am not prepared to accept this explanation. I should like to ask the Hon'ble Member to tell me why this branch of the public revenue in particular, and no other branch of the revenue, should exhibit such remarkable recuperative power. The other branches of your revenue have not recovered; why is it that the receipts from Excise alone show such buoyancy? There must be some reason other than that advanced by the Hon'ble Member. It is impossible to resist the conclusion that there is a strong and a growing tendency towards the use of intoxicating liquors. I am aware of the policy of the Government in the matter of Excise, namely, the principle of the maximum of revenue with the minimum of consumption. That policy in the abstract is open to no objection, but in practice it is liable to be attended with grave abuse, because it exposes the underlings of Government to

the temptation of stimulating the revenue by stimulating the consumption, under the belief, rightly or wrongly, that their promotion depends upon the growth of the Excise Revenue. I should like to ask the Hon'ble Member what number of outstills we had in 1897-98, and what the number was in 1898-99? And will he be able to give the assurance that these outstills are only to be found in outlying and sparsely populated parts of the country?

"Coming to the head of Forests, we find the revenue is steadily decreasing, while the expenditure is steadily increasing. In 1897-98, the Provincial share of the revenue amounted to 6 lakhs; in 1898-99 it was less than 5 lakhs, and in this budget the estimated receipts for 1899-1900 are even less. If you now turn to page 9, you will find the cost of establishment steadily increasing; and the explanation given is that the decrease is due to a smaller demand for firewood by the Commissariat Department in Darjeeling, owing to the absence of some of the troops there. I should like to know whether a permanent decrease in the revenue is expected? If the revenue shows such a steady tendency to decline, the establishment ought to be cut down. What would a private firm do under such circumstances? If a mercantile firm found that the revenue of a particular branch was decreasing, they would certainly reduce the establishment. In this connection I would remind Your Honour of the words of encouragement and sympathy you expressed in connection with the suggestion I made that facilities should be offered to the youth of Bengal to join the Forest School at Dehra. Several applications were sent through the Collectors of districts to the Conservator of Forests; these young men sent their applications, subject to the necessary formalities, but nothing came of them. The Local Government may indeed grant scholarships to students carrying on their studies at the Forest School in special cases or on the recommendation of the Conservator of Forests. The Local Government would naturally be unwilling to make special cases, and it would be difficult in most instances to get the Conservator of Forests to recommend young men for scholarships of whom he would know little or nothing. The rules must be re-cast. The Department should be more thoroughly provincialised, and the general administration placed more directly under the orders of the Provincial Government.

"Then I come to Plague, and I find an increase of Rs. 49,000, and the explanation is this, that the Government expects to receive back this money from local bodies for Police lent to them for the prevention of Plague. May I ask

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Your Honour's Government to forego this sum, in pursuance of the generous policy embodied in this budget under which contributions for plague purposes will be made to District Boards and Municipalities?

"Under the head of Irrigation there has been a steady decrease in the receipts without any explanation being given. I find that the actuals in 1897-98 amount to Rs. 21,89,577 and the revised estimate of 1898-99 gives Rs. 18,00,000, while the budget estimate of 1899-1900 is Rs. 17,01,000, and the explanation given is this: 'The increase in 1897-98 was due to recoveries of outstanding balances at the end of the previous year and to increased area of land irrigated owing to heavy demand for water for irrigation purposes in Orissa and Bihar.' That will explain the difference between the figures of 1897-98 and 1898-99, but it is no explanation of the difference between 1898-99 and the budget estimate of 1899-1900.

"Then I come to minor works of Irrigation, the grand total of which shows an increase; but in one item there is a decrease, namely, the receipts under the Orissa Coast Canal. In 1897-98 the receipts were Rs. 86,000, in 1898-99 Rs. 67,000, and the estimate for 1899-1900 is Rs. 60,000.

"Coming now to the expenditure side of the budget, I have to call attention to one or two items. Under the head of 'Land Revenue—Land Records and Agriculture' there is an increase, and the explanation given is that the increase is partly due to the increase in the pay of the Director of Land Records and partly to smaller debit of the establishment to Bihar Settlement Operations. I want to know why there was any increase in the pay of the Director of Land Records, and what the increase was?

"Then I come to the head of Excise, under which I find the expenditure steadily increasing as regards the charges for superintendence. In 1897-98, the actuals [illegible] 68,325, in 1898-99 the revised estimate was Rs. 70,000, and the estimate for 1899-1900 is Rs. 73,000. No explanation is given of this increase. Then the charges under Distilleries show a steady tendency to increase. In 1897-98 they were Rs. 1,31,942, the revised estimate for 1898-99 was Rs. 1,40,000, and the estimate for 1899-1900 is Rs. 1,42,400. For this increase there is no explanation.

"Then, with reference to the Income-Tax, the actuals for 1897-98 were Rs. 1,89,776, the revised estimate of 1898-99 amounts to Rs. 1,93,000 and the

estimate for 1899-1900 is Rs. 1,94,000. In regard to this increase there is an explanation which I am not able to follow.

"Then I come to Law and Justice. Under the head of Law Officers there is an increase without any explanation. From Rs. 3,21,317, the actuals in 1897-98, it rose in the revised estimate of 1898-99 to Rs. 3,31,000 and Rs. 3,33,000 in the budget estimate of 1899-1900, without any explanation being offered.

"Under the head of Presidency Magistrates there is an increase from Rs. 62,519, the actuals of 1897-98, to Rs. 64,000 in the revised estimate of 1898-99, and Rs. 68,000 in the budget estimate of 1899-1900. No explanation is given.

"Then under the Courts of Small Causes the revised estimate of 1898-99 is Rs. 1,68,000, and the budget estimate of 1899-1900 is Rs. 1,72,000. There is no explanation given.

"Under 'Pleadership Examination charges' there is an increase all the way long. The actuals in 1897-98 were Rs. 13,352, the revised estimate of 1898-99 was Rs. 16,000, and the budget estimate of 1899-1900 amounts to Rs. 20,000.

"Then, with reference to the charges under the head of Law Courts, I should like to know whether any Additional Munsifs or Subordinate Judges were appointed in 1898-99, or anything was done in the way of house accommodation for Munsifs.

"Then I come to the head of Jails. The establishment in 1897-98 cost Rs. 4,97,201. The revised estimates of 1898-99 are not given; but the budget estimate of 1899-1900 amounts to Rs. 5,27,000. I want you to compare the increase in establishment with the decrease in the dietary charges which amounted to nearly Rs. 7,00,000 in 1897-98, but in the budget estimates of 1898-99 and 1899-1900 are fixed at Rs. 5,34,000. The figures for the revised estimates for 1898-99 are not given. While you are adding to the establishment you are decreasing the cost of food of the prisoners. I do not mean to say that there has been a decrease in the quantity of food, but there is a decrease in the expenditure on account of food. I called attention to this matter some time last year. I am a visitor of the Alipore Jail. I found that since 31st March, 1898, the dietary allowance of fish and meat given twice a week to Hindu and Muhammadan prisoners has been discontinued, and I put down a strong protest against it in the Visitors' Book. I also wrote about it in the papers and put

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a question in this Council. I want to submit very respectfully for the consideration of Your Honour's Government that fish is to the ordinary Bengali what meat is to the European, and I am certain that you would not countenance for one moment the discontinuance of meat diet to European prisoners. If I am right—then I think it is unfair and very hard—and of this I am convinced that Your Honour's Government will do nothing that is unfair—that Hindus and Muhammadans should be restricted to a purely vegetable diet to which they are not accustomed. I appeal to you, Sir, once more, in this behalf.

"Then, with reference to the expenditure on 'Village police,' there is a steady increase. The actuals for 1897-98 are Rs. 19,015; the revised estimate of 1898-99 amounts to Rs. 20,000, and the budget estimate for 1899-1900 is Rs. 39,000, and there is no explanation given at all.

"Then I come to the question of Education. My hon'ble friend who spoke last remarked that the increase in the budget grant under this head was Rs. 50,000. That is not so. The increase as compared with the revised estimates is about Rs. 1,50,000. We are grateful for this increase. The inspection charges have increased. They amounted in 1897-98 to Rs. 3,66,400, in the revised estimate of 1898-99 they are put down at Rs 3,69,000, and in the budget estimate of 1899-1900 they are fixed at Rs. 3,74,500. No explanation is given of this increase. And I also notice with some little regret a reduction in the allotment for grants-in-aid, which are most useful in connection with various institutions in the mufassal. I am taking the figures of the three years given in the budget, and on those figures I am entitled to hold, and hold with some regret, that there has been a reduction in the allotment for grants-in-aid. From Rs. 6,05,552, the actual expenditure in 1897-98, the grants-in-aid rose to Rs. 6,20,000 in the revised estimate; but in the budget estimate of 1899-1900 they are put down at Rs. 6,10,000; that is to say, as between the revised estimate of 1898-99 and the budget estimate of 1899-1900 there is a falling off, and this calls for an explanation.

"Then there is an increase in respect of Medical Establishments. I need not read the figures.

"I go over to the next page of the budget and come to the head of Imperial Institute. It is a small matter of Rs. 500, but why do we make any grant to the Imperial Institute?

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"Then I come to the next item of Donations to Scientific Societies, and there is a note that there is a temporary suspension of the grant to the Buddhist Text Society. That Society is doing good work, and I hope this grant will be continued to this very useful institution.

"Then there is the item of Provincial Statistics, in which there is a steady increase of expenditure. I do not know what these Provincial Statistics mean, but if we had a fuller budget, we should know what they were. From Rs. 2,275, in 1897-98, the expenditure rose in 1898-99 to Rs. 8,000, and in the budget estimate for this year it is put down at Rs. 17,400. No explanation is given.

"As regards Irrigation, there is a steady increase from Rs. 5,74,779, in 1897-98, to Rs. 5,92,437 in 1898-99, and in the estimate for 1899-1900 it amounts to Rs. 6,12,000. There is no explanation given.

"In the expenditure upon the Hijili Tidal Canal there is a steady increase.

"These are all the items I have to trouble the Council with. In conclusion, may I be permitted to renew my usual appeal on behalf of the ministerial servants of the Government—an appeal which has also been made by Raja Ranajit Sinha of Nashipur—an appeal which has been repeated by persons of distinction, both in and outside the service of Government. Men belonging to different political schools and professing different political principles have raised their voice in one common appeal for an increase of the salaries of these hard-working servants of Government. Men who differed in everything else—men like Sir Griffith Evans, Mr. Toynbee, Mr. Beames, Sir Charles Stevens, who once held the office which Your Honour now fills with such benefit to the people, were found to be in common agreement about this matter. And yet nothing has been done. The Government of Bengal, under the advice of Mr. Risley, included in a former budget a sum of 3 lakhs for this purpose, but the amount was disallowed. The matter was again raised the other day before the Supreme Council, and then it was said that if the Government can find clerks on a salary of Rs. 30 a month, the Government ought not to pay more. The law of supply and demand was appealed to, but it is not to be imagined that that view had escaped the attention of the distinguished men who had considered this question. In 1889, a Commission was appointed to enquire into the strength and pay of the ministerial

[*Babu Surendranath Banerjee; Babu Norendra Nath Sen.*]

establishments of the Civil Courts in Bengal. They submitted their report in March, 1890. The Commission consisted of Mr. Toynbee and Mr. (now the Hon'ble Mr. Justice) Stevens. They said in their Report (*vide* page 38):—'We venture with great deference to suggest that a strict application of the law of supply and demand seems to us to be of very doubtful expediency, for this reason, that almost every appointment that can be held by a ministerial officer attached to the Courts affords more or less opportunity for obtaining illegal gratifications * * *. There is a strong consensus of opinion among officers, both European and Native, that the present salaries are generally insufficient. The general increase suggested by several officers is 25 per cent.'

"May I venture to hope that Your Honour's Government will take up this question, and deal with it once for all in a manner which will do credit to the great administration over which you preside and to the highest traditions of British statesmanship?"

The Hon'ble BABU NORENDRA NATH SEN said:—"Considering the circumstances under which we meet, considering what we have passed through during at least two disastrous years, and having regard also to the existing condition of these Provinces, and what, in the nature of reverses, is possibly still in store for them, I can only say that we are thankful for the Financial Statement which has been placed before us so lucidly by the Hon'ble Mr. Baker. The budget presents a satisfactory aspect, so far as it goes. Ours, however, is not a 'prosperity budget,' like the one which closed the career of Sir James Westland in the Supreme Council. We barely manage to jog along and pay our way—thanks mainly to the accident—for it is hardly anything else—of the Imperial chest being for once full to overflowing. And this reminds me, Sir, of the gallant fight you made, not long ago, to get back from the Government of India at least some small portion of what the Bengal Government has been paying into the Imperial Treasury, under the Provincial Contract System, these many years. Though you have not obtained, Sir, the 23 lakhs and a half that you claimed, you have succeeded in securing for us a substantial gift of 17 lakhs. And your success, Sir, is all the more conspicuous, when we find that Bengal has had the good fortune to be treated with proportionately greater consideration than either of the two sister Presidencies. And I am glad to note that the amount which the generosity of the Government of India has spared for the use of Bengal, has been distributed in

[*Babu Norendra Nath Sen.*]

fair and equitable allotments, and I sincerely congratulate Your Honour's Government on this fact. As the representative of the Calcutta Municipal Corporation, I cannot sufficiently thank you, Sir, for the liberal grant of Rs. 3,40,000 which Your Honour's Government has been pleased to make to that body on account of the plague expenses. And yet I should like to offer some slight criticism in regard to allotments that, it seems, have not been made, but some of which, so far as I can judge, were equally pressing.

"I will not detain the Council by harping on the necessity of increasing the number of Munsifs in Bengal, and of affording them suitable house accommodation, and also of increasing the emoluments of the ministerial officers in Bengal, for it has been pressed on the attention of Government over and over again. But I fervently pray that all these matters may receive the favourable consideration of Government at no distant date.

"The question, however, that demands our immediate attention is the question of a pure water-supply in the mufassal. I raised this point from my place in Council in the course of the debate on the budget last year, but I regret to find from what has fallen from the Hon'ble Mr. Baker, in answer to the questions put by me and by my hon'ble friend, the Raja Bahadur of Nashipur, that this real grievance has not at all been adequately attended to. People living in East Bengal can scarcely have any idea of the condition of the people in West Bengal. For nowhere is the scarcity of water so severely felt during the hot months of the year as in West Bengal. In the districts, especially of the 24-Parganas, Hooghly and Nadia, people cannot get pure water during these months for drinking or culinary purposes. They have to obtain their water-supply from long distances, and even then the water is muddy, and has to be cleansed by rude, unscientific methods somehow before it is rendered tolerably fit for drink. Such water cannot be wholesome. In Bengal, people suffer from a variety of diseases, chiefly fever and cholera, and I have no doubt in my mind that bad water is the source of all maladies that flesh is heir to in various parts of rural Bengal. In these terrible days of Plague, the question of a pure water-supply ought to be the first care of Government, and I should have been delighted, Sir, if a handsome allotment had been made for this purpose in the budget from the free grant, made by the Government of India, to supplement the efforts of the Municipalities and

[*Babu Norendra Nath Sen.*]

District Boards, referred to by the Hon'ble Mr. Baker. If the Bengal Government is unable to supply the requisite funds, may I ask it to encourage the digging of wells and the excavation or restoration of tanks by private parties who, in former times, when they happened to be Hindus, did these things very frequently from a sense of moral and religious duty, but which they somehow or other fail or neglect to do now.

"Going into the details of the budget, I find that against cash in hand amounting to 39½ lakhs of rupees in round numbers at the end of the official year 1897-98, there were only 9¼ lakhs of rupees a twelve-month after, and this will swell to 34⅛ lakhs of rupees a twelve-month thereafter, that is, about this time next year. This, it will be allowed, is rather hap-hazard finance, and is mainly owing to the Provincial Governments not being permitted to deal with their own incomings and outgoings. The Financial Statement bristles in almost every paragraph with evidences of the interference of the Supreme Government in what may be called the household management of the Bengal Government, and the result, in many instances, I notice, is somewhat opposed to one's ideas of the fitness of things. For example, the Customs Revenue doled out to Bengal is Rs. 98,993, yet the expenditure charged against this allotment is nearly 8 lakhs of rupees, or, to be exact, Rs. 7,89,789. The relation between the Supreme and the Provincial Governments of India is something analogous to that subsisting between the federal Government of the United States of America and its confederate States. The latter move in orbits of their own, so far as they have to find sinews for their civil administration without any embarrassing interference from the Central Government. The revenue of these separate States is mostly derived from direct taxation, levied on real and personal property. In the case of Bengal, its Provincial Rates amount to nearly 90 lakhs of rupees, yet it is allowed only a moiety of that sum, the remainder being swept in the Imperial Treasury. No wonder that, with such treatment, the Provincial Governments find one year find their finances in a prosperous condition and in another put to their wits' end to cast about for new sources of revenue. The question of the Provincial Governments being allowed some latitude to find their own sinews of war within their respective jurisdictions will have to be faced sooner or later, and it is a hopeful sign that the subject was referred to at length by our late Finance Minister in the budget debate which took place in April of the year before last. Sir James Westland adduced the example

[*Babu Norendra Nath Sen; Babu Kali Charan Banerjee; Babu Saligram Singh; Babu Jatra Mohan Sen.*]

of Belgium for the decentralisation of the Provincial Finances, but if the example of the United States of America, to which I have referred, is properly scrutinised, we may find a lesson for our guidance much nearer home."

The Hon'ble BABU KALI CHARAN BANERJEE said:—"I should like to add only one observation to those which have already been made by Hon'ble Members who have already spoken. While it is satisfactory to know that there will be an increase in the allotment for Education, it were to be hoped that that allotment did provide for the redress of the grievance which, notwithstanding the answer, as I understand it, given to Question No. II (*b*) put by the Hon'ble Babu Norendra Nath Sen, I venture to say, does exist. The grievance has taken this form. The salary of an officer is reduced under the re-organization scheme. The reduction is made up for by the grant of a personal allowance. The personal allowance is drawn for a time; then the allowance is withdrawn, and the officer is called upon to refund the amount drawn by him as personal allowance. This is not an imaginary case. It is a case of grievance, and it were to be hoped that the allotment for Education did provide for the redress of grievances like this."

The Hon'ble BABU SALIGRAM SINGH said:—"I have only one observation to make with respect to the expenditure under the head of Law and Justice. As has been observed by other Hon'ble Members of the Council, I think that the case of the Munsifs requires consideration. I am of opinion that no reduction should be made under this head of the budget, but on the contrary more funds should be allotted to it with a view to enhance the salaries of the Munsifs and improve their prospects with regard to promotion."

The Hon'ble BABU JATRA MOHAN SEN said:—"I do not propose to ma any lengthy observations in connection with this budget statement, because it h been specially dealt with by the Hon'ble Members who have preceded me. B I wish to join my voice in the recommendation made on this and on form occasions, both in this Council and in the Council of the Supreme Governmen that house accommodation should be provided and better pay be given to th Munsifs, a class of officers who it is now admitted are very hard-worked, but ar ill-paid and not properly accommodated. With the improvement of the finan cial resources of the Government, may I express the hope that the Governmen

[*Babu Jatra Mohan Sen; Sahibzada Mahomed Bakhtyar Shah; Mr. Buckley.*]

will see its way to improve the position of these hard-worked officers. I wish also to join my voice in the recommendation which has been made by some of my Colleagues for an increase of pay of the hard-worked ministerial officers of the Government."

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH said:—"I have very little to say after the able speeches that have been made by my Hon'ble Colleagues regarding the budget estimates laid before the Council by the Hon'ble Mr. Baker. All I will say is, that we have reason to congratulate ourselves on the prosperous condition of the finances and on the judicious distribution of funds to the various departments."

The Hon'ble MR. BUCKLEY said:—"The Hon'ble Babu Surendranath Banerjee referred to certain questions connected with Irrigation Works. He referred to page 16 of the budget, and pointed to a decrease in Irrigation Revenue. It is true that the figures given there do seem to display a reduction of revenue, and it is perhaps unfortunate that the year, which the Hon'ble Member takes as his standard, happens to be the bumper year of Irrigation in Bengal. It is a fact that the figures of the succeeding years, 1898-99 and 1899-1900, are expected to be somewhat less, but it is by no means a fact that the Irrigation Revenue of Bengal is decreasing. The truth is very much the contrary. The Sone Canals during the first five years after they were opened worked at a loss of about 1¼ lakhs. In the next five years they showed a profit of 6½ lakhs; in the next five years the profit was 8 lakhs; in the next five years the profit amounted to 9 lakhs; and in the next five years they worked with a profit of 20 lakhs. The revenue from Irrigation Works in Shahabad has within the last few years very largely increased. The same thing has been experienced in Orissa, though not in so marked a degree. The Orissa Canals first worked at a loss, but for the last two or three years they have yielded a small profit. The reason why the figures in the second column of page 16 show a decrease is that there was a large profit in the previous year due to the occurrence of the famine. The famine occurred in 1896-97, but the maximum revenue was not realized in that year, as the revenue on the large *rabi* crop of the famine year was not due until 1897-98. In the Hijili Tidal Canal a large quantity of railway material was carried during the year 1897-98, and enhanced the receipts of that year. The Provincial contract now

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current contemplates an actual revenue from major works of Irrigation of 16½ lakhs; but those works have actually realized nearly 18½ lakhs. So the revenue which Bengal is now deriving from Canals gives a profit of something like 2 lakhs over that which was contemplated by the Provincial contract. It is stated in the explanation on page 16 that the increase in 1897-98 is due to recoveries of outstanding balances at the end of the previous year. That is true to a certain extent, but not wholly so. But it is a curious fact that increase in the collection of outstandings is one of the causes of the decrease of revenue, because the more you collect of outstandings the less you have to collect of the current demand. Ten years ago the outstanding balance of the Irrigation Revenue of the year was about 5 or 6 lakhs of rupees, that is to say, it was from 25 to 30 per cent. of the gross revenue; five years ago the outstandings were only about 2 lakhs, or from 10 to 12 per cent. of the gross demand; last year (1897-98) it was only Rs. 6,000. When it is remembered that this Irrigation Revenue is collected from between 400,000 and 500,000 persons in all parts of the district, it must be admitted that when you can collect within Rs. 6,000 of the gross revenue of some 16 or 18 lakhs of rupees, it is a remarkably good result. The outstandings in 1898-99 are likely to be considerably less than they were in the previous year, and it may be said that 100 per cent. of the demand has been collected. I venture to commend these results to the attention of the Members of this Council who are connected with the collection of rates and taxes at a place not so far as Shahabad or Orissa. When you have decreasing arrears and increasing revenue coupled with the collection of 100 per cent. of that revenue, I venture to say that a very satisfactory state of affairs is displayed.

"Then the Hon'ble Babu Surendranath Banerjee referred to a particular point connected with the Orissa Coast Canal in page 17. He stated that there was a decreasing revenue. This is so; but it is hardly fair to take three particular years as a criterion. As a matter of fact, there have been in previous years smaller figures, but one of the reasons, and I believe the chief reason, for decrease is the opening, or prospects of the opening, of the Bengal-Nagpur Railway. No doubt one of the results of the opening of that railway would be to prejudice the revenue of these canals.

"Then the Hon'ble Member referred to Irrigation Works (page 23), and he pointed out that there was a steady increase on account of the repairs of the

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Sone Canals. Again I must say that it is not fair to take the figures of only two or three years. The Hon'ble Member is right that in this particular year there is an increase in the working expenses of these Canals to a small extent, but, taken as a series of years, the working expenses of the Sone Canals have decreased by about 1 lakh of rupees a year.

"I should like to turn from the Irrigation Works to the Railways in Bengal. The Hon'ble Members of this Council have probably all followed with interest the statement made in the Imperial Council about the expenditure on railways, but I doubt if they have fully realised what a large share of that expenditure is flowing into this Province. The Imperial Government has a programme for the next three years which deals with railways over which the Government of India has financial control. They propose to spend 22 crores and 37 lakhs on the whole of the railways in India, and out of that Bengal will get no less than 6 crores and 65 lakhs; that is to say, about one-third of the whole railway expenditure in India. This is a subject upon which we may congratulate ourselves. The mileage of railways to be constructed throughout the whole of India within that period of three years is about 33,800 miles, while for Bengal alone the mileage is to be 12,000 miles. In connection with this, in the Department over which I have the honour to preside, there is one important point which has been more than once brought to the attention of the Government of Bengal, and which will be of special interest to the Bengal Chamber of Commerce. It is the subject of providing feeder roads to the railways. Railways are progressing with giant strides all over the Province, and roads are not progressing at an equal pace. But the subject has by no means been forgotten. Money was allotted for the purpose in 1896-97, but the occurrence of the earthquake rendered it necessary to withdraw the allotments. But His Honour the Lieutenant-Governor has now decided to make steady progress in opening up feeder roads to railways. Two and-a-half lakhs is given in 1899-1900 for the construction of feeder roads, of which Rs. 75,000 has been allotted to the Duars. I sincerely trust that this programme will be continued in future years, so that we may go on opening out feeder roads wherever they may be required in connection with railways.

"The Council will no doubt be interested to learn the extent to which we have been involved in expenditure on account of the earthquake. It will cost us in buildings no less than 11 lakhs, of which 3½ lakhs were spent in

1897-98, about the same amount in 1898-99, and 4 lakhs in the year just commencing. No less than 400 or 500 buildings have been repaired and 20 or 30 have been entirely re-constructed. In this Council about a year ago Sir Alexander Mackenzie promised that, if the financial position allowed, he would try to re-model the hospitals in Calcutta. The Council is aware that the Government of India has consented to bear a portion of the cost of a new General Hospital. During 1899-1900 the Government of Bengal has allotted 2¾ lakhs and the Government of India another 2¾ lakhs, so we hope to spend the 5½ lakhs in the construction of the new General Hospital during the year. A commencement will also be made with the Physiological and Pathological block for the Medical College Hospital."

The Hon'ble MR. BOLTON said:—"I propose to confine myself to the matters mentioned by the Hon'ble Members which relate to the Departments in my charge. These Departments are Police, Jails and Criminal Justice. Babu Surendranath Banerjee took exception to the recovery of a sum of Rs. 48,000 from local bodies on account of the cost of police entertained for protective measures in connection with the plague. These recoveries will be made on the general principle of the liability of local bodies for plague expenditure, regarding which my hon'ble friend Mr. Baker will doubtless address some remarks to the Council. Another item alluded to by the Hon'ble Member under the head of Police is the increased provision made for the village police. The explanation of that increase is simple. It is almost entirely due to provision for the employment of sardar chaukidars in Orissa. The chaukidari system is under re-organization in that Province, the service lands being resumed by Government and assessed to revenue, and the maintenance of the chaukidars transferred to the villagers, under the system of panchayats. The Government has, however, of its own motion undertaken to pay the sardars required for the supervision of the chaukidars, and practically the whole of the proceeds of the resumption of the service lands, amounting to about Rs. 46,000 annually, will be devoted to this purpose.

"With regard to the Jail Department, the Hon'ble Member trusts that the surplus revenue of Rs. 74,000 received from manufactures has been obtained without competition with private industries. A similar question as to the competition of jail with private manufactures was answered by me in this Council a year or more ago, and I need now only repeat that jail manufactures

[*Mr. Bolton.*]

are carried on essentially for the supply of Government Departments, such as the Police, the Military, and the Jail Department itself. There are doubtless some manufactures which are not all consumed in the jails or taken by the Government Departments, but their quantity is small, and when the articles are sold to the public the prices are so fixed as to avoid unfair competition with private industries. The large increase of revenue received from jail manufactures in the past year is accounted for by the low price of raw jute, which is largely used in the Alipore Jail, and by larger indents from the Government Departments. A very large number of tents were manufactured in the Buxar Jail and of blankets in the Bhagalpur Jail.

"The Hon'ble Member also urged that some increase of expenditure might properly be incurred in providing better diet for the prisoners, and he suggested especially that fish should be included in the diet, as it is largely consumed by both Hindus and Muhammadans. I replied last year to a question of the Hon'ble Member on this subject, and then informed him that the absence of fish or meat from their ordinary food did not affect the physical condition of prisoners, but that these articles were given to individual prisoners when the periodical weighments indicate a falling off in their weight, or when symptoms of scurvy manifest themselves. It is true that in most districts of Bengal, specially during the rainy season, fish is largely consumed by all classes of the people, but this is not the case in Bihar and Chota Nagpur. The prisoners of those Provinces are not, therefore, deprived in jail of an article of diet to which they have been accustomed, while, as I have observed, the Bengal prisoners do not suffer from the exclusion of fish from their ordinary diet. It is impossible to make a distinction and give to the Bengal prisoners, or the well-to-do prisoners alone, a luxury which is refused to others. Fish would, moreover, add largely—and unnecessarily—to the cost of the prison diet.

"I have next to reply to the remarks of Hon'ble Members under the head of Law and Justice. A decrease is shown in the expenditure on establishments. The explanation is furnished in paragraph 34 of the budget statement. The decrease is almost entirely due to the absence of one High Court Judge for eight months of the year. There has been no reduction of the establishment of Subordinate Judges and Munsifs. Temporary additions have, on the contrary, been made whenever necessity has been shown to exist, under the authority

[*Mr. Bolton.*]

which the Local Government possesses of employing extra officers for six months without the sanction of the Government of India.

"Improvement of the prospects of the Munsifs has been urged. I personally sympathize with this class of officers, whose duties are undoubtedly onerous, and who have to wait long for promotion to the superior grade of Subordinate Judges. The improvement of their position, however, is a question of finance; and I fear that other pressing demands on the finances of the Province will preclude any steps being taken for a revision of the pay of the Munsifs for some time to come. Information has also been desired as to the provision of house accommodation for these officers in the outlying stations, where suitable houses cannot be hired. I regret my inablity to give a satisfactory reply on this point. The question of providing house accommodation for the Munsifs, especially in Eastern Bengal, was discussed some years ago, and it was decided to build houses gradually at many places. Provision was actually made for eight houses, at an average cost of Rs. 5,000, in the budget of 1897-98, but our good intentions in this respect, as in many others, were frustrated by expenditure on famine and plague, and I regret that no progress has been made. I have recently discussed the matter with my hon'ble friend, Mr. Buckley, and he has been good enough to make provision in the current year's budget for the construction of a few houses. I trust that we may be able to record the completion of these buildings at the end of the year, and that more will be annually constructed in the future until we have accomplished all that is needed in this matter.

"An increase in the receipts from fees for the Pleadership and Muktarship Examinations has been commented on. It is due to an increase in the number of candidates, and not to an enhancement of the fees. New rules admitting to the Mukhtarship Examination only candidates who have passed the Entrance Examination of the University have been passed, and there has, in consequence, been a rush of candidates who have not that qualification in anticipation of their being brought into force.

"Raja Ranajit Sinha Bahadur suggests that the Civil Court amins should receive higher pay, in view of the important duties entrusted to them. I am in a position to give information on this subject, which will doubtless be of interest to the Council. It is proposed to dispense gradually with the

services of paid amins. They have not, as a rule, given satisfaction to the Courts and the public, and Messrs. Stevens and Toynbee, who were deputed some years ago to investigate and report on the question of revising the ministerial establishment of the Civil Courts in Bengal, recommended their gradual abolition, and suggested that the Courts should be left to appoint commissioners under section 392 of the Code of Civil Procedure for the carrying out of local enquiries. Their recommendation has now been approved, with the concurrence of the High Court, and the sanction of the Government of India has been obtained to the introduction of a Bill for the repeal of the Civil Courts Amins Act in Bengal, the existing appointments of amins being saved until they gradually lapse through retirements or otherwise. The younger members of the mufassal Bar will, in the future, be ordinarily employed as commissioners for local enquiries, a knowledge of surveying being required, and this will doubtless afford a welcome source of income to many. They will have an easy means of acquiring proficiency in surveying at the Survey Schools of the Province. The Courts will be at liberty to employ other qualified persons also.

"The increase of expenditure in the Calcutta Small Cause Court and the Presidency Magistrates' Court provided for for the current year has also been alluded to. In the former case it is attributable to the fact that the staff of Judges sitting for the full year is expected to be larger than in the past year. The appointment of an interpreter and two clerks for the Benches of Honorary Magistrates, which was recommended by the Chief Presidency Magistrate, accounts for the increase in the second case. It has been sanctioned for one year, but will be made permanent if proved to be really needed.

"I desire to offer some remarks, in conclusion, on Raja Shashi Shakhareswar Roy's suggestions regarding the use of panchayats for the disposal of petty cases of a civil and a criminal nature. The scheme which he has sketched out is alluring on the surface, but I fear that there are serious objections to any attempt to give it practical effect. The old village officials have ceased to exist over the greater part of the Province, and this is in itself a strong impediment to a return to an archaic system. The village panchayat is a modern creation for the special purpose of imposing and levying a tax for the rural police, and the members do not possess the influence or command the respect which were exercised and enjoyed by the village officials of former

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times. We are unfortunately also aware that in most villages there are disputes, connected with property or with social matters, in which the majority of the well-to-do villagers generally become involved, and that parties are thus created, between which feeling frequently runs very high. Under such conditions it would not ordinarily be possible to obtain disinterested arbitrators, and the villagers themselves are not likely to desire the local settlement of their disputes. As a matter of fact, Babu Guru Prasad Sen, when sitting on this Council, prepared a scheme for the reference of civil cases to village arbitrators, which I had the advantage of seeing. I confess that the scheme appeared to me unpractical; and its author has not since placed his views before the public or the Government. The difficulty of finding disinterested arbitrators, which I have just mentioned, is a very serious objection to the Raja's proposals, and there are minor difficulties. It is, for instance, important, when civil rights are decided, that there should be a proper record of the proceedings, but such a record could hardly be expected from the village tribunals. Their records could not be cited with confidence in proceedings in the Civil Courts. As regards the use of panchayats for the trial of petty criminal cases, the Hon'ble Member quoted a passage from an annual report of the Commissioner of the Chittagong Division, which mentions the successful employment of panchayats in such cases in the district of Noakhali. I understand that the village panchayats are now being largely used in Backergunge for the settlement of disputes of a criminal nature. Much may doubtless be done in this way, but discretion is needed in references to the village panchayats. Any general direction enjoining free recourse to these references is to be deprecated. It might lead some Magistrates to make use of the panchayats for the purpose of relieving themselves of the trouble of personally enquiring into complaints which the parties would prefer to have formally heard in Court."

The Hon'ble MR. FINUCANE said:—"I propose to answer very briefly the questions which have been raised in connection with the Departments of the Government with which I am connected, namely, Education, Forests, Land Revenue and Settlements. Under the head of Education, the Hon'ble Babu Surendranath Banerjee has asked how it is that the budget allotment of the year just passed had not been expended during the year, there having been a saving

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of Rs. 1,17,000. In the budget estimates it is explained that this saving is chiefly due to less expenditure than was anticipated under the heads of Salaries and in grants for the training of teachers and stipends to pupil-teachers of normal schools. That to a very great extent accounts for the saving, but there are also other reasons. The saving is due partly to the fact that certain officers of the Indian Educational Service retired during the year, and their places were not filled up by recruits from England. Secondly, a large number of officers were on furlough during the year owing to illness and other causes. Again the budget provided for giving retrospective effect to the scheme for the re-organization of the Subordinate Education Service, but the Government of India did not see their way to give it retrospective effect. The budget also provided for the opening of certain schools in Kurseong, but for various reasons there was delay in the opening of those schools, and the result was a certain amount of saving. The budget further provided for a larger expenditure on technical schools and for giving aid to training and normal schools than actually took place, the short expenditure being due to the paucity of pupils attending those schools. I think the explanation which I have given is sufficient, and I will not trouble the Council with the details of the expenditure on which the Hon'ble Member laid stress. But if the Hon'ble Member wants further details, I shall be glad to furnish him with them. I can assure him that the details furnished by the Accountant-General are bewildering and that they cover a larger number of pages than are contained in the Bombay Budget under the head of the Educational Department. In answer to a question which was put to-day by the Hon'ble Babu Norendra Nath Sen, I said that nobody had suffered actual loss by the introduction of the new re-organization scheme, while the previous pay of many was materially increased, and the prospects of all were improved. That statement is perfectly correct. What happened was this: Under the re-organization scheme a certain limited number of officers would draw less pay than they were drawing before its introduction; to those gentlemen allowances were given to make good the difference, and are being continued to them; but before the scheme was actually sanctioned some officers drew the increased allowances to which they would be entitled if the scheme had been given retrospective effect, and as retrospective effect was not given to it, those payments had to be refunded. But, as I have said before, nobody suffered any loss. As to the temporary stoppage of

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the grant to the Buddhist Text Society, I may say that the grant was stopped partly because the Government was advised that the work of the Society was not such as to justify the expenditure of public money on it, but mainly because it was considered desirable that the Government should give all the aid it could towards the carrying on of another work, namely, the preparation of a Thibetan Dictionary, in order that that work, which was very important, should be completed as soon as possible. These, as far as I can remember, are all the questions in connection with the Educational Department which have been referred to in the course of this discussion.

"Then as to Forests, the Hon'ble Member has asked why the receipts have been steadily decreasing and the expenditure steadily increasing during the last three years. My answer as to that is, that that statement is not correct. In 1896-97 and 1897-98 the receipts were abnormally high owing to a certain contract for the supply of sleepers for the Rai Bareilli Railway. The requirements of that contract having been fulfilled, the work then ceased; consequently the Department had a considerably larger revenue during those years than in any year before or after, and the expenditure also was larger in consequence of the carrying out of the contract. But it is not correct to say that the normal receipts had decreased. On the contrary the receipts anticipated this year and in the year which has just passed are larger than in any previous year, save the exceptional years to which I have referred. In 1898-99 the budget estimate was Rs. 9,28,000; in the present year the receipts are estimated to be Rs. 9,60,000. In 1895-96 the receipts were Rs. 9,18,000, in 1894-95 they were only Rs. 7,00,000, and they also stood at Rs. 7,00,000 in 1892-93. The fact, therefore, is that the normal receipts are steadily increasing. Then as to expenditure, there was, as I have said, special expenditure entailed during the two years 1896-97 and 1897-98 in carrying out the contract for supply of sleepers; but apart from that, the subordinate establishment was re-organized and certain increases of pay were given, and I feel certain the Hon'ble Member will not object to the increase of the pay of the lower grades of the Service. While on this subject I may say that the officers of the Forest Department are in a somewhat difficult position. If they show overzeal in the matter of increasing the revenue, they are accused on the cutting and removal of timber, of oppressing the people by imposing harassing conditions; and if they are liberal, they are accused of losing revenue. I think I may safely say that if the officers of

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the Forest Department have faults, one of those faults is not the want of zeal in increasing the revenue. Their tendencies are, on the contrary, very much the reverse, and the Government has sometimes to check their enthusiasm in the matter of increasing their receipts. Then, as to the increase of establishments, I can also assure my hon'ble friend that the Government are not over-generous in increasing the pay of the Superintendents or other officers of this or any other department. Then the Hon'ble Member enquired as to the relaxation of the rules for admission to the department. The present rules were drafted by a Committee of experts, and they were devised with a view to getting the most competent men without regard to caste or creed or nationality; but if the Hon'ble Member can suggest any relaxation or modification of the rules which will have the effect of more freely admitting candidates from Bengal without doing injustice to the candidates from other parts of India, I can assure him that his suggestions will receive careful consideration. We have already called upon the Conservator to exercise more freely his power to nominate candidates for admission to the school at Dehra, but there is no disguising the fact that the natives of Bengal do not appear to be so willing to enter into this department as people from other provinces. The same rules apply to the admission of candidates from other provinces, and there is no lack of candidates from provinces other than Bengal.

"As to the Department of Land Records, my hon'ble friend asked why there was an increase in the pay of the Director of Land Records. As a matter of fact there was no increase in the pay of the appointment. When the appointment was created in 1882, it was decided that the incumbent should be in the third grade of Magistrates; and as his contemporaries in that grade rise to the higher grades, the pay of the Director was similarly increased. The increase of provision in the estimates is intended to meet that contingency.

"Lastly, there was a small question asked as to the grant to the Imperial Institute. The total grant under this head is only Rs. 500. As staples from Bengal, such as jute, indigo, cotton and other economic products, are exhibited at the Imperial Institute, and their exhibition there may do some good to Bengal and to India generally, a grant of Rs. 500 is not considered an excessive contribution."

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The Hon'ble MR. BAKER said:—"Before replying in detail to the various points that have been raised by the several Hon'ble Members who have spoken, I should like to say one word in acknowledgment of the courtesy and generally temperate tone with which those Hon'ble Members have referred to the Financial Statement which I had the honour to lay before the Council. The temperate and reasonable manner in which the various comments and criticisms have been made make the task of replying to them both easier and more agreeable.

"The discussion has been as discursive as usual, and the remarks which have been made appear to cover very nearly every important feature of the Provincial administration, and no one can have failed to observe that many of the questions raised are rather of an administrative than of a financial character. Personally, I am not disposed to quarrel with this, and I am sure our President will be disposed to interpret the rules which govern debates in this Council in a liberal manner. But it is sometimes inconvenient to make a pronouncement on important public matters off-hand, and without the weighing of words which would be appropriate if one had more time for reflection. On these occasions, it is borne in upon one that it is wiser to say too little rather than too much. This must be my excuse if what I have to say should appear to be either inadequate or incomplete.

"There was one question put by the Hon'ble the Raja of Tahirpur to which I shall first reply. He asked if there was any head of the budget under which a pension could be given to a distinguished Bengali scholar or poet, and he mentioned the case of one distinguished gentleman who died in poverty without receiving any assistance from the State. To this question I will say that there is no particular head of the budget specially assigned for a provision of this kind, but there are many heads under which such a charge could be admitted, and if at any time any conspicuously deserving case of the kind were brought forward, I feel sure it would receive the sympathetic consideration of my hon'ble friend Mr. Finucane.

"Then the Hon'ble Raja, while expressing gratitude for the grant made to District Boards and Municipalities, expressed the opinion that no charge should be made against those bodies on account of the Plague. The same point was taken by the Hon'ble Babu Surendranath Banerjee as to the expenditure incurred on account of the plague camp at Chausa, who also urged, with

reference to the recovery of Rs. 48,000 under the head of Plague Police that he hoped that charge would be waived. I fear I can add very little to what I said on Saturday last on this point. I said that one reason, and in fact the main reason, why the Government decided to refund the contributions taken from local bodies in the past year was that such charges were imposed upon them after the year had begun and there was no means of making budget provision for them. I then stated that the charges were perfectly legitimate charges, that they were perfectly legal charges, and that no one could deny that they were perfectly equitable. For many years past charges for famine relief formed part of the duties of District Boards, and charges for the protection of themselves and the people within their jurisdiction from plague appear to me to be entirely analogous, and I can hold out very little expectation that the charges which will be incurred this year on account of plague will be remitted.

"Then the Hon'ble the Raja of Nashipur referred to the question of the supply of pure drinking-water, and the same point was taken by the Hon'ble Babu Norendra Nath Sen. With reference to this, I answered a question this morning which showed what had been done in the past towards the supply of pure water, and that answer showed the progress which had been made and the attitude of the Government in this matter. But it appears to me that this question of providing pure water is essentially a matter of self-help. According to my information there are very few villages in Bengal which have not in their midst one or more tanks or wells which would be sufficient for local purposes, if they are kept in proper order and the water preserved from contamination, but this can only be secured by spontaneous co-operation among the people themselves. So long as the people are content to wash their utensils and their clothes and water their cattle in the same water which they use for drinking, the task of securing a supply of pure water is beyond the power of any Government: not even a perpetual police guard would suffice. We look to the influence of educated native gentlemen in the mufassal by precept and example to gradually lead their fellow-countrymen in to the more excellent way.

"Then the Hon'ble the Raja of Nashipur referred to deaths from cholera and fever and urged that some provision should be made for providing medical aid. With reference to that also, I answered a question this morning. I explained the measures which the Government had taken to prevent the

spread of plague by the appointment of Health Officers in all parts of the Province and showed also that such officers had been appointed everywhere; and when outbreaks occurred in Dacca, in Faridpur, in Saran, and Darbhanga, every effort was made to provide additional medical aid. In combating plague we place greater reliance on prevention rather than cure. Medical science has been unable to discover any remedy for plague, and the measures we rely upon are the disinfection and ventilation of infected houses, the segregation of the sick and of the persons who are in contact with them, inoculation, and some restriction of passengers likely to convey infection. These measures do not require the provision of medical attendance all over the country. Apart from the matter of plague, the question which the Raja has raised is one of local rather than of Provincial finance. The duty of providing medical aid is imposed by law on District Boards and Municipalities, and very great progress has been made in that direction. In Bengal, excluding Calcutta, there are 487 charitable hospitals and dispensaries, which are attended by very nearly three million patients. In Murshidabad, which is the Raja's own district, there are eight such places, attended by 56,000 patients last year. Of course, if there were a larger number of dispensaries and doctors, it would be beneficial. Chota Nagpur especially is very badly supplied, but the difficulty in all these cases is to find the necessary funds.

"Turning to the observations made by the Hon'ble Babu Surendranath Banerjee, the first point he raised was that the Provincial Budget should be laid before the Council and discussed by it before it is submitted to the Government of India, and he expressed the view that possibly the Government of India would not object to such a course. Unfortunately that is not the case. This very proposal was put before the Government of India in 1893 by the Government of Madras and was definitely negatived. The Hon'ble Member is possibly not aware that the Provincial Budgets are prepared at the end of December or beginning of January, and are required to be laid before the Government of India on the 20th of January, and the Government of India pointed out that it is not possible to prepare a budget with sufficient accuracy for public discussion so early in the year. The Provincial Budget after all is only a portion of the Imperial Budget. Provincial Governments have little or no financial independence, and the Government of India consider that it would be inconvenient that a portion of their budget should be

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laid before the public and discussed before it is finally settled by the Government. The proposal of my hon'ble friend therefore cannot be entertained.

"The next point to which he referred was that in order to enable Members to make better suggestions for economy, it would be desirable to have more details, and he referred to the practice in the Bombay Council, and said that the budget of the Bombay Government occupied I forget how many pages. I have referred to the papers of the Bombay Council, and I find that what is submitted to that Council is the civil estimates of the Government of India. Those estimates cannot be got ready for issue before June in each year. In 1894, when I was Deputy Secretary under the Government of India, the question was gone into whether it would be possible to get them out at an earlier date, and it was found on the eminent authority of Mr. Stephen Jacob that that would be quite impossible. If we are to give the same amount of details as in the case of the Bombay Council, the discussion upon the budget would have to be deferred until the session of the Council held in the rainy season; and that is done in Bombay. It is laid before the Council for discussion in the month of August, and that would not only be contrary to the other proposal which the Hon'ble Member made for the discussion of the budget before its submission to the Government of India, but would be an exceedingly unfortunate arrangement.

"The Hon'ble Member also referred to the additional grant of Rs. 50,000 on account of the collection of the Public Works Cess, and he quoted an article in the *Amrita Bazar Patrika* to the effect that the Government had offered to pay one-third of the joint cost of collecting both the Public Works Cess and the Road Cess, but they actually paid less. This matter formed the subject of a question in this Council two or three years ago, and the matter was explained by Mr. Risley at considerable length. The Public Works Cess was imposed in 1877, and came into operation in 1878-79, and it was from the beginning considered advisable that the two cesses should be collected by one and the same establishment. In July, 1898, when the question of the necessary establishment came up for consideration, the Board of Revenue submitted a long series of proposals showing what establishment would be necessary, and stated, with reference to the question of amalgamated establishments, that all the District Committees took it for granted that the Government would pay one-half of the united establishment. The Board of Revenue agreed that there are strong

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reasons against paying anything, but they considered it would be right for the Government to act without even a show of illiberality, and they therefore recommended that the Government should contribute equally with the local bodies, but they pointed out that the calculations made by the District Officers were defective, as they took no account of the large measure of assistance which the Government already contributed in the collection of the joint cesses. The valuations are made by Deputy Collectors, who are paid by the Government; supervision is exercised by Deputy Collectors, who are all paid by Government, and all the proceedings are looked after by Collectors, Commissioners, the Board of Revenue and their offices, and for none of these is any charge made. Therefore, the Board was of opinion that when the Government came to consider what proportion it should pay towards the expense of the collection of these cesses, it should take into account the assistance which it gives by means of its superior officers. They calculated that, roughly speaking, the proportion of time given by the superior officers of the Government towards controlling the proceedings in connection with the collection of the Road Cess and the Public Works Cess was worth not less than one-fourth of the whole. Therefore, taking all things into consideration, the direct cost of collection, *plus* the value of the time of the superior establishment, and dividing the total into two equal proportions, they recommended that the Government should continue to pay the superior establishment as before, and one-third of the direct cost of the collecting establishment. By this means the charges were divided into two equal parts. The Government accepted that proposal, and in a letter dated the 31st January, 1879, they decided that while the principle was accepted it would save the making of a separate adjustment every year if a fixed sum were allotted to each district, once for all, based on the calculation which the Board of Revenue suggested. That broad principle was adopted in 1878-79, and it has been observed ever since that year. The cost of collection in 1877-78 was Rs. 1,40,534. In the figures from which the Hon'ble Member quoted, it is said that the amount was Rs. 1,61,000, but that alluded to the cost of collection in 1879-80, two years after the Government orders were issued. One-third of Rs. 1,40,534 amounts to Rs. 46,844, and therefore the Government allotted a sum amounting to that, and that sum has been paid ever since. The Hon'ble Member said that the amount now paid is only Rs. 44,500, which is less by Rs. 2,300 than what they ought to pay. The explanation is

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simple. Payments made by the Government on account of the cost of collection in non-Board districts are shown under the head of Contributions. The Government has actually been paying half of the charges of collection all along.

'The next point to which the Hon'ble Member referred was the Excise Revenue. He said that there has been an increase of revenue to the extent of Rs. 50,000, and he expressed a good deal of hesitation as to whether that was a legitimate source of satisfaction or not. From paragraph 3 of the Financial Statement, the Hon'ble Member would see that there has not been an increase of revenue as compared with the receipts of the previous year, but only as compared with the budget estimate of the year. The paragraph relates to the revised estimate of 1898-99. As compared with the previous year, so far from there having been an increase, there was a decrease of Rs. 6,63,000. The Excise Commissioner, Mr. K. G. Gupta, has made a calculation which shows that during the two years 1896-97 and 1897-98 the Excise Revenue has been affected by the famine to the extent of 17½ lakhs. In ordinary years there is an increase of about 4 lakhs a year in the Excise Revenue. In the year 1895-96 the Excise Revenue amounted to Rs. 133¾ lakhs, and according to Mr. Gupta's calculation, it ought to have been now Rs. 145¾ lakhs, whereas it is only 133½ lakhs. In that proportion the revenue for 1899-1900 should be 149¾ lakhs, whereas we have only estimated for 135 lakhs. Whether the effects of the famine have been exhausted or not, we have thought it right to frame our estimates with caution, and instead of taking an increase of 4 lakhs, as calculated by the Excise Commissioner, we have estimated for an increase of only 1½ lakhs over the year just passed. Then the Hon'ble Member wished to have the figures as to the number of outstills and distilleries. I have the figures. During the last three years, the number of outstills were, in 1895-96, 2,091; in 1896-97, 2,079; in 1897-98, 2,018. This shows no signs of increase. Similarly, the number of distilleries is stationary. In 1895-96 there were 1,197; in 1896-97, 1,191; in 1897-98, 1,193. The total number of shops, both distillery shops and outstills, is 3,211, and I may mention that in the North-Western Provinces the number of shops of all kinds for the sale of country liquor is 6,530. As regards the location of outstills, the Hon'ble Member will find full information in the Excise Report, which is available to the public. If he turns to the beginning of the report, he will find that the agrarian parts of the

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Province are generally under the outstill system and that in towns there are distilleries. The whole of the Presidency Division, as well as Burdwan, Dacca, Orissa, and parts of Bhagalpur are under the distillery system and all the rest of the Province is under the outstill system. An exception to this is in the large towns in Bihar, all of which are under the distillery system. Then, with regard to the increase under the head of Superintendence in the Excise Budget, I think the Hon'ble Member will find that there has been hardly any increase. Last year we made provision for three Railway Inspectors of Excise with some provision for travelling allowance for them. That caused an increase of Rs. 6,000, but the whole of that was not found to be necessary, and we have therefore slightly reduced the provision for the same charge in the current year. Then, having regard to the increase on account of distillery charges, as a matter of fact there has been no increase. The figures for the last five years stood thus:—In 1893-94 the expenditure amounted to Rs. 2,32,000; in 1894 95, Rs. 2,14,000; in 1895-96, Rs. 1,52,000; in 1896-97, Rs. 1,67,000; and in 1897-98, Rs. 1,32,000. The reason why there was a comparatively high estimate for 1898-99 is that there was an excessive grant on account of contract contingencies: but arrangements have been made to reduce this. The charges are also liable to be complicated by payments on account of rewards over which we have very little control.

"The next point which has been referred to by the Hon'ble Member is the subject of grants-in-aid. I think the Hon'ble Mr. Finucane did not reply to what was said on that point. The Hon'ble Babu Surendranath Banerjee said there had been a reduction in the provision for grants-in-aid. That I can show him is not the case. In 1893-94 the expenditure on account of Education amounted to Rs. 5,73,000; in 1894-95 it amounted to Rs. 6,05,000; in 1895-96 to Rs. 6,14,000; in 1896-97 to Rs. 6,26,000, and in 1897-98 there was a drop to Rs. 6,06,000. For the year now just begun, in the first instance, we made a provision of Rs. 6,10,000 and since then we have made an additional grant of Rs. 50,000, so that the total grant for the current year is Rs. 6,60,000, which is higher than that of any year for which we have figures.

"Then the Hon'ble Member referred to the question of Medical Establishments, and he said there was an increase. The reason for that increase is simple. The increase is in the budget estimate as compared with the revised estimate of the past year. The revised estimate was low because the medical

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staff of the Province had been considerably below the normal strength during the year. We are entitled to have three Deputy Sanitary Commissioners, and during the whole of that period we had none. For the current year we hope to have these officers, and we have estimated for the full staff.

"There is one more small point. The Hon'ble Member referred to the estimates under the head of Provincial Statistics, and he showed that there had been an increase. It is a simple matter. There are three heads of Statistics—Provincial Statistics, Railway-borne Traffic, and River-borne Traffic. These relate to different branches of the registration of traffic, and if you add them up, the total of the three heads remains almost stationary during the period in question. The change is simply due to a transfer having been made from one head to another under the orders of the Accountant-General.

"Hon'ble Members have said a good deal about improving the salaries of ministerial officers. This is a question which has been brought up in this Council on many previous occasions. For the last three years it has formed a subject of discussion in the budget debate. Three years ago Mr. Risley went into the question at some length, and he showed that the conclusion to which the Salaries' Commission came, that the cost of living had risen to the extent of 75 per cent., was altogether fallacious, and he showed that the true increase in the cost of living had been from 13 to 16 per cent., and he said he was prepared to admit that an increase in the salaries of ministerial officers to the extent of 12½ per cent., or 2 annas in the rupee, would not be an unreasonable measure. The Government of India at the revision of the Provincial Contract refused to make any provision for such a charge, and it therefore became necessary to strike it out. To what Mr. Risley said on that occasion I would wish to add one word in justification of having done nothing in this direction this year. The Financial Statement made it clear that apart from the special grant of 17 lakhs given by the Government of India, the Provincial Revenues are barely in a position of stable equilibrium. We can only just make the two ends meet. In giving us these grants the Government of India plainly stated that they were made to the Local Governments once for all, and they expressly warned all Local Governments from entering upon any recurrent expenditure in the hope of such grants in the future. Therefore, we are precluded from embarking at the present time upon any expenditure of the kind suggested by Hon'ble Members. I should like, however, to state my personal

views on this question. I may say that my sympathies are entirely in favour of giving to this class of officers an increase to the extent proposed by Mr. Risley. If, as is admitted to be the case, the standard of living has risen among the class from which our clerks are drawn, it will be necessary to raise their salaries so that they shall be able to continue to live according to the standard to which they are accustomed. If we fail to do so, we shall either have to draw our clerks from an inferior social class, or they will be driven to supplement their salaries by dishonest means. On a recent occasion His Highness the Maharaja of Darbhanga, in referring to this question in the Legislative Council of the Government of India, put forward as one of his grounds the fact that these men usually have large families to support. This statement has been interpreted to mean that they usually have a large number of sons and daughters, and that Government ought to pay them enhanced salaries on that account. I venture to doubt if that is really what the Maharaja intended to convey. The term 'family' in this country has a much wider signification than the same term has in Europe. Hindu custom compels every native gentleman in receipt of a comfortable income to support a large number of relations, either by blood or marriage, who have no means of their own, and who would have no claim upon him according to English ideas. I know of one case: A Hindu gentleman of high caste, and an old friend of mine, once told me that he had 72 mouths to feed every day of the year; he is now drawing a comfortable salary, but he is getting on in years, and by reason of the large number of persons he has to support, he has been unable to make any provision for his old age. If that is the case with a native gentleman on the comfortable salary of Rs. 300 a month, what must be the position of a wretched clerk on Rs. 25 or Rs. 30 a month?

"I have only one word more to say. With reference to the grant of 17 lakhs which has been made to us by the Government of India, I have listened to the criticisms which have been made on this point with a good deal of satisfaction, because, although it is not open to me to say anything myself by way of criticism on the action of the Supreme Government, I may be permitted to say that my sympathies are with the Hon'ble Members who have spoken on the subject. I think that under the rules laid down in 1881 as to the manner in which famine charges should be dealt with, there can be no doubt that the Government of India was bound to refund to the Bengal

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Government not less than 23½ lakhs in recoupment of the amount spent on famine relief in these Provinces, and I have not yet heard any argument which convinces me that the grant of 17 lakhs is an adequate repayment to us in this respect. Moreover, out of those 17 lakhs, 2 lakhs were on account of plague charges, which I think should be an entirely independent and separate matter. Practically, we have received only 15 lakhs, whereas to the best of my understanding and belief, we should have received not less than 23½ lakhs.

"In conclusion, I have to express my thanks to the Hon'ble the Rajas of Nashipur and Tahirpur and to the Hon'ble Babu Surendranath Banerjee for having given me some notice of the points they intended to raise in this discussion."

The Hon'ble THE PRESIDENT said:—"The budget you have been discussing this morning is a simple and unpretentious one, and I am not surprised that it has not provoked more adverse criticism. It provides certain aids to local authorities, which I think in all the circumstances of the case are just, and it includes certain items of expenditure, all of which I hope will be beneficial, and some of which are necessary. In this last category I put the provision for feeder roads. This is an absolute corollary on the provision the Imperial Government has made and is making for railways in Bengal. We are having our Province covered for us with a net-work of railway lines, for which we are grateful to the Imperial Government. Our neighbours in the North-West had the start of us, but we are running fast ahead now—and as Mr. Buckley has said 'more than one third of the railway projects for the next three years are concentrated in this province.' We all of us rejoice in this; we know and have seen for ourselves how marvellous is the change and development that comes to the country which a railway opens—the life, the vigour, the trade, the expansion and quickening of every interest. But for all this to come into prompt and real effect, the railway must be accessible. It is absolutely necessary that its stations shall be fed by numerous and tolerable roads. You have a parallel in the railways' own locomotive engines—magnificent masses of machinery—but useless without the wheels upon which alone they can move. Therefore, my Government has given to its Public Works Department all that it possibly can for the construction of feeder roads. In the hope of a happy day to come, the Department has prepared a formidable list of these roads, and we

have before us a carefully-prepared and digested scheme, to which I hope that the financial conditions of the Province will enable us to address ourselves steadily and firmly. I regard it, as the Chief Engineer does, as of the first importance that our measures in this matter should not be spasmodic outbursts of enthusiasm, but a uniform, sustained progress on carefully-settled lines, and unless we are disturbed by such misadventures as we do not anticipate, that is, the course on which we have now embarked.

"Of the beneficial measures that on which I personally lay most stress is the aid to the Sibpur College. I think I expressed last year my high admiration of that institution. The longer I know it, and the more I know of it, the higher does my opinion of its value grow. It is the only school in my knowledge, every one of whose pupils gets employment the momout he successfully passes its curriculum. That is the sufficient and certain evidence that it fulfils a great public want. The field for men of engineering aptitudes and engineering attainments is growing faster in Bengal than our schools enable us to fill it. Railway construction, railway maintenance, railway management, works, public and private, large and small factories—mines—the list is a long and splendid one, and our supply of men is not equal to the demand. Therefore, I said in reviewing the Report of the Director of Public Instruction last autumn, that the Sibpur College should have all the help we could give it. That promise has been redeemed in this budget. The College is to a certain extent supported and served by a number of technical schools scattered over the Province. With some of these I was much disappointed at my visit to them, and the Principal of the Sibpur College has just completed a tour of inspection of them all, which he undertook, at my desire, to set down their several defects and the means of improving each and making it really useful to its neighbourhood. An advance copy of his report reached me only yesterday, and I hope before long we shall have our whole body of technical schools put on a systematized and useful basis, on lines harmonious with, and leading up to, the higher curriculum of the Sibpur College for those pupils who wish to go up to that standard, and yet giving the best possible and most useful instruction to those who are content with the lower one.

"Now we come to the great items of the aids to local authorities. As I said before, I think that in all the circumstances it was just to give this aid. The Province was attacked last year by the great danger which, when the last budget

[*The President.*]

was discussed, was ominously threatening. The plague was a very unusual as it was also a very formidable calamity. The cost of the measures for meeting it and for fighting it has been very heavy, and has weighed very seriously on the finances of the local authorities who had to bear the initial burden. We, the Provincial Government, could not help them then, because we were ourselves bankrupt. Now that we are no longer bankrupt, I think they are entitled to our help. I have applied to myself exactly the same argument which I lately used in our own behalf with the Government of India. They had money, when we had not; we had money, when the Government of India had not, at a time when money had to be found. When the monetary emergency passed, then came the time to reason together as to the share each should pay. I think it is a just principle that in misfortunes, which entail expense, local bodies should pay according to their means. If you do not impose this principle, then no inducement remains to provide against the rainy day. It is the unexpected that happens, and the rainy day always does arrive. But if you always take off the local body the burden of the unexpected, first of all, as I said, the local body will not provide against the unexpected, and in the second place, the local body will spend your money with the magnificent disdain of economy which always characterises one's expenditure of other people's money. I accepted that principle for my own Government in my correspondence with the Imperial Government as to the adjustment of our famine accounts when the Supreme Government was once more in funds; and I venture to think that the principles laid down in 1881 to govern the relations of the Supreme and Local Governments in these matters, which had to be temporarily abandoned, will now be revived as fair and just to all parties. In the same way my Government cannot undertake to bear always and altogether the charges that local bodies have to incur in order to stave off or suppress plague. Plague, however, is more unusual—less to be expected than famine,—and I was willing to take this into account, when our turn came to adjust with our subordinates the expenses of this calamity. In view also of the fact that the expenditure on this head is unfortunately not yet at an end, we have been most liberal to all the local authorities concerned with the warning as to the responsibilities that lie on them.

"So much for the general principles of the budget on which I wished to make a brief explanation of our attitude. The Hon'ble Babu Surendranath

[*The President.*]

Banerjee said that discussions of the budget are in his experience not infructuous. I wish to endorse that with all my heart. These discussions are in my opinion never altogether infructuous. As we have seen to-day, they range over the whole range of local politics and contain many useful suggestions which deserve a sympathetic consideration. One of these, for instance, is that upon which the Hon'ble Member spoke with much warmth, namely, the question of the salaries of the ministerial servants of the Government, in every word of which I join. I regret that it is impossible for the Government to do anything at the present moment. Its finances are not sufficient to enable it to undertake any immediate additional expenditure, but I also think the opinions expressed by two successive Financial Secretaries to the Government make it clear that this is a matter to which we must give our attention.

"More than one Hon'ble Member to-day has made reference to a remark which I happened to make in the discussion which took place on the last financial budget. I then said it would be a satisfaction to me if I could hear some suggestions as to greater economy in our administration. Two Hon'ble Members have taken up that matter in their speeches this afternoon, but I am sorry to see that out of it all has come only one suggestion which might effect a little economy, namely, the employment of *panchayats* for the hearing and decision of petty civil and criminal cases. To that proposal I shall refer more fully in a moment, but I cannot help remarking that the Hon'ble Member who referred to this suggestion of mine last year, instead of suggesting any immediate economy, only suggested fresh additional expenditure. The establishment of veterinary schools was suggested, but they cost money. The enhancement of the salaries of the ministerial servants of Government may be an excellent thing, but it also wants money. The Hon'ble Babu Surendranath Banerjee said that if the Members of this Council had the details which the Bombay Government supplied to their Council, they would be able to extract from them information upon which they could devise reductions of expenditure. The reams and folios of statements presented to the Government are not material from which reductions of expenditure can be expected. My hope was that the non-official Members of this Council, living among the people and seeing what is going on, would be able to say you have an unnecessarily large establishment here in this particular department of public business, or they might say you are increasing too largely in this direction. It is in the actual working of the administration that one

might expect Hon'ble Members to say where economies are possible, and it is my disappointment that none of the Hon'ble Members have been able to see any direction in which economies can be effected. There are one or two directions in my own mind at this moment, in which I think economies can be effected, but I have myself so little confidence in the result, that I shall refrain from giving them to the Council at present. After all, they can only be small economies.

"My Hon'ble Colleagues in the Secretariat have answered almost all the criticisms in detail in their respective speeches. But there are just two points upon which I would like to add one word: The first of these is with reference to the observations made by the Raja of Tahirpur upon the subject of *panchayats*. In my early days I was full of zeal about *panchayats*. I thought that was a way in which satisfactory justice could be had, and I exerted all my energies in trying to induce the people to go to the *panchayats* for the settlement of their disputes. My success, however, was not equal to my expectations, and gradually I came to realize that now a days under the altered condition of things, the people won't have *panchayats*. They insist upon decisions in a formal way by the regular courts. But that is not entirely my personal opinion and my personal experience. In a neighbouring province they have a system of village munsifs corresponding to what is proposed to be tried here with the aid of *panchayats*. I grieve, however, to say that instead of lessening litigiousness and diminishing the number of disputes and quarrels, it has led to an increase of disputes and an increase of litigation. With that experience I look with hesitation on any change such as that which has been proposed by the Raja of Tahirpur. No doubt there are particular cases in which arbitration is desirable and most beneficial, if you can get men thoroughly to be trusted, whose character and integrity are so entirely above suspicion, that everyone would be willing to go before them and would accept their decision. Then you would have an ideal *panchayat*. But how many of such men can be had who will give their time to the performance of duties of this kind?

"The only other remark I have to make is on the subject of Jails. Some question has been raised as to the propriety of carrying on manufactures in jails. The purchasers of jail manufactures are, almost without exception, the great public departments of the Police and the Military. Of course if the jails did not manufacture, some private concerns would turn out what the public

[*The President.*]

departments require. But we must make prisoners pay for their incarceration as much as they can, and we must make their incarceration as severe a punishment as the laws of health permit us to inflict. In the course of my tours I have observed that in many jails incarceration is not complete; that far too much of extramural labour is permitted in jail gardens and elsewhere. But if the punishment is to be deterrent, if convicts are to look to the place to which they are sent as a place to which they would not like to return, the punishment must be, as far as you can make it, absolutely and entirely within the jail walls, and it is my constant aim to enforce the incarceration of prisoners as far as possible. If prisoners are confined within prison-walls, their employment must be some form of manufacture.

"These are all the remarks I have to make. I thank you all for the courtesy and kindness with which you have received not only the budget statement, but in listening to the explanations which have been made by my Colleagues and by myself."

ADJOURNMENT OF COUNCIL.

The Hon'ble THE PRESIDENT said:—"I had hoped, Gentlemen, that next Saturday would see the conclusion of our session. A large number of Hon'ble Members of the Council have been engaged for some time in considering an intricate and complicated Bill for the amendment of the Municipal Law of Calcutta. I had hoped that their report would have been ready for presentation to the Council next Saturday, but I am pressed on the part of Hon'ble Members who wish to write very elaborate notes to defer the presentation of the report for a few days longer. I have acceded to their desire, and therefore the next meeting of the Council will be held on Wednesday, the 26th instant."

The Council adjourned to Wednesday, the 26th April, 1899.

CALCUTTA;
The 22nd May, 1899.

C. L. S. RUSSELL,
for *Assistant Secretary to the Govt. of Bengal, Legislative Department.*

Reg. No. 163G—300—26 5-99.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Wednesday, the 26th April, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble NAWAB BAHADUR SYUD AMEER HOSSEIN, C.I.E.
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble MR. M. FINUCANE, C.S.I.
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble MR. J. PRATT.
The Hon'ble BABU NORENDRA NATH SEN.
The Hon'ble BABU SALIGRAM SINGH.
The Hon'ble BABU KALI CHARAN BANERJEE.
The Hon'ble BABU SURENDRANATH BANERJEE.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR.
The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.

CALCUTTA DRAINAGE.

The Hon'ble BABU NORENDRA NATH SEN asked—

Has the attention of Government been drawn to the recent expert opinion of Mr. Baldwin Latham, who is said to have been engaged for some time past in enquiring into the causes of the plague in Bombay, attributing the disease to the malarious influences arising from the polluted and water-logged condition of the soil of the city, due to its sewers, in view of which the

Bombay Municipal Corporation have already engaged the services of Mr. A. J. Hughes, the late Engineer to the Calcutta Municipal Corporation, to consult him as to the drainage of the sub-soil of Bombay? If so, does not the Government think that, diseases of a febrile character having been steadily on the increase in Calcutta, as would appear from its health returns since 1888, when the drainage works were completed, and culminating in the outbreak of the present plague, speedy measures should not be taken to ascertain whether all this may not have arisen from a polluted and water-logged condition of the soil, due to its faulty and defective drainage? As the question of the drainage of Calcutta, affecting its sanitary condition, is of far greater importance than any other question regarding the health of the city, and as Dr. W. J. Simpson, the late Health Officer of the Calcutta Municipal Corporation, was strongly of opinion that the soil of Calcutta was so greatly polluted as to be comparable to a vast trenching ground, does not the Government think it necessary to take competent expert opinion without delay, having in view the present plague, as to the measures which ought to be adopted for the thorough drainage of the surface and sub-soil of Calcutta?

The Hon'ble MR. BAKER replied:—

"The Government of Bengal is not aware that Mr. Baldwin Latham has been engaged in enquiring into the causes of plague in Bombay. The circumstances, and the nature of the soil, in Calcutta are very different from those in Bombay. In Calcutta the sub-soil is mostly alluvial deposit of great depth and of an impervious nature, with occasional sandy portions. In Bombay it is believed that the sub-soil is, generally, of a much more pervious nature, of comparatively shallow depth, overlying rock.

"The Sanitary Commissioner does not share the opinion attributed to Dr. W. J. Simpson, that the soil of Calcutta is 'so greatly polluted as to be comparable to a vast trenching-ground'; but, if that opinion were correct, the evil is one which cannot be removed by sub-soil drainage.

"The Corporation of Calcutta has a project in progress, estimated to cost some 78 lakhs of rupees, for improving the sewerage and drainage of the town and suburbs, and it is the duty of that body to see that the existing sewers are watertight, so that leakage from them cannot pollute the soil. This scheme will, it is hoped, have a distinct effect in lowering the sub-soil water. This has been the case in many towns in England, with markedly beneficial effects on the public health."

[*Babu Norendra Nath Sen; Mr. Baker.*]

MALARIOUS FEVER DUE TO THE WATER-LOGGED CONDITION OF THE SOIL.

The Hon'ble BABU NORENDRA NATH SEN said—

The Government is aware that malarious fever, in an almost epidemic form, has been afflicting Lower Bengal for the last thirty-eight years or so, and that its ravages have been rapidly on the increase. To quote the last Administration Report of Bengal for 1897-98, "taking one year with another, about three-fourths of the whole number of deaths from all causes are ascribed to fevers." This malarious fever is generally believed to be due to the water-logged condition of the soil, caused by obstructions to the natural drainage channels from high roads and railway embankments; and, as the population of various parts of Lower Bengal is being decimated by it, will the Government be pleased to state what steps it means to take to relieve the water-logged soil, and to mitigate the ravages of the disease?

The Hon'ble MR. BAKER replied:—

"The statistics of the last five years lend no colour to the idea that the mortality from fever is increasing in Bengal. The figures are as follows:—

In 1894	...	1,799,833, or 25·32 per 1,000 of the population.			
„ 1895	...	1,634,254, „ 22·99	„	„	„
„ 1896	...	1,760,225, „ 24·76	„	„	„
„ 1897	...	1,679,132, „ 23·62	„	„	„
„ 1898	...	1,419,483, „ 19·97	„	„	„

"According to the mortality returns, it is true that about three-fourths of the whole number of deaths from all causes are ascribed to fevers. But it must be borne in mind that in most cases the cause of death depends ultimately on the diagnosis of the village chaukidar, which manifestly cannot be relied on; and it is believed that many deaths really due to pneumonia, phthisis and other causes are shown as due to fever.

"It may, however, be admitted that the majority of the cases of fever shown in the mortality returns are really ascribable to malaria. This arises in large measure from inefficient surface drainage, which produces in some instances water-logging of the soil. Raised roads, canals, embankments, and railways may, in particular localities, and in respect of limited areas, cause

some obstruction to local drainage; but it is believed that this effect is comparatively insignificant and purely local. Such works are provided with ample waterway in the case of all marked drainage channels, and it is indeed necessary for the safety of the works themselves that this should be so.

"It is unquestionable that the health of some districts might be improved by a well-designed system of drainage channels; but the expense of such works would be great and the benefit would be local; and it would not be right to throw the cost of them on to the general tax-payer. The Bengal Sanitary Drainage Act of 1895 provides a machinery by which any District Board may carry out drainage works for the improvement of the public health of any area within its jurisdiction, and may recover the cost by a rate imposed on the locality benefited. It is for the local authorities to take action under these provisions of the law, instead of demanding to have everything done for them at the expense of Government."

THE SUBORDINATE EDUCATIONAL SERVICE.

The Hon'ble BABU NORENDRA NATH SEN said—

I have the honour to invite the attention of Government to the cases of a few officers of the old Subordinate Educational Service, mentioned in paragraph 4 of the Director of Public Instruction's letter No. 1414T., dated the 28th June, 1895, and also to the extract noted in the margin from the Government of Bengal's letter No. 2832, dated the 14th August, 1895, and to ask (*a*) whether any steps have yet been taken to include these officers in the way originally contemplated in the Government of Bengal's letter; (*b*) how many of them have already been taken into that service since 1st August, 1896; (*c*) whether the post in the Provincial Service that has lately fallen vacant by the death of Pundit Sukhbasi Tewari, of the Patna College, should not justly be filled up by any one of these officers, and the new incumbent be placed

"The proposals in paragraph 4 of the Director of Public Instruction's letter of the 28th June exemplify the impossibility of laying down a rigidly fixed scale for the staff of a department in which the number and status of colleges and schools are continually liable to change. Sir Charles Elliott presumes that the number of the members of the Provincial Service being started at 113, it will be in the power of the Lieutenant-Governor to make fresh appointments in the lower grades, &c., &c., &c."—*vide pages 136-37 of the papers relating to the Re-organization of the Educational Services in India from 1891—97.*

in the Subordinate Service, as was done in the case of Pundit Pram Tarkabhushan, of the Sanskrit College; (*d*) whether one or two posts no in the Provincial Service may not conveniently be given away to some officers instead of appointing men from outside.

The Hon'ble MR. FINUCANE replied:—

"Of the 16 officers mentioned in paragraph 4 of the Director of P Instruction's letter No. 1414T., dated the 28th June, 1895, 3 were admi into the Provincial Service before the 1st August, 1896; 4 have been admi since that date; 1 is dead, and 1 has resigned the Service.

"The strength of the Provincial Service was originally fixed at 104 offic 100 of whom were to hold specified appointments: and 4 were supernume officers of general qualifications who were intended to fill vacancies arising fi officers going on leave, or being incapacitated through illness to carry out t duties. Nine extra officers whose places were not to be filled up on retire were also admitted on personal grounds, but 8 of these appointment hav been absorbed.

"The total number of Oriental Professorships included in th appointments was only 6; and 6 Orientalists were duly ap Professorships. The remaining 94 specified appointments w up by appointing suitable incumbents, and it was only af appointments had been made that the question of filling up numerary appointments was taken into consideration. As these 4 posts are intended for officers of general qualifications ut, in co sideration of the hardship of the cases of the officers alluded to in paragraph of the Director of Public Instruction's letter under reference, 3 of the sup rnumerary appointments were, as a special case, given to 3 of the officers in question whose qualifications were solely those of Orientalists. The greatest difficulty has consequently been experienced in carrying on the work of officers of general qualifications who go on leave, and this difficulty can only be overcome by securing that the 4 supernumerary appointments shall be held by officers of general qualifications. It follows, therefore, that the Service can only be brought into its normal condition by appointing men of general qualifications to vacancies occurring in the ranks of the Professors of Oriental Languages, until the number of such Professors is reduced to 6. This has already

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pa1e in one case, and it is impossible to appoint one of the officers referred a1e Hon'ble Member to succeed Pandit Sukhbasi Tewari, for to do so r be to still keep the number of officers of general qualifications 2 below pecified strength. There are no posts now vacant in the Provincial ice; in fact, the Service is still one in excess of the sanctioned strength."

WATER-SUPPLY AND FEVER IN FARIDPUR.

The Hon'ble BABU NORENDRA NATH SEN asked—

Is the Government aware that water-famine prevails to a most alarm- extent every year during the hot season in the large tract of marshy d lying in the southern part of the district of Faridpur, and that the le water that is sometimes available in the summer months consists chiefly lecomposed vegetable and organic matter, and that in consequence of the 'e of this tract of land being compelled to use this water for drinking es, a very large number of them are annually carried off by cholera? easures does the Government propose to take to arrest the ravages and its annual visitations in this lowland tract and to supply drink- the people inhabiting this part of the district?

"The pro'ble MR. BAKER replied:—

Public Instru

the impossibi ose to answer this Question and Question VII, of which the for the staff o ber has given notice, together.

and status of

"Government has no special information regarding the particular tract of nd referred to in the south of the district: but taking the district as a whole, appears that the total average mortality from all causes during the five years, 1892 to 1896, was 32·17 per 1,000 of the population. This is almost exactly the general average of the whole province, which was 32·11 per 1,000.

"On the other hand, it is true that the mortality from cholera and fever s exceptionally high. During the ten years, from 1887 to 1896, the cholera death-rate in Faridpur was 4·03 per 1,000, against a provincial average of 2·62. On the other hand, the district was comparatively free from cholera in 1898, the death-rate being only 1·96 per 1,000.

"As regards fever, the decennial average mortality of the district was 18 per 1,000, which is below the provincial average of 19·81. During 1896 and

considerable part of the year, are greatly handicapped and inconvenienced their commercial, trade, and other business relations? Will the Government pleased to state what measures it has taken, or proposes to take, to confer upo this isolated area the blessings of communication with the outer world, and also what action it intends to take upon the representation of the Bengal Chamber of Commerce to open a canal through this *bil* or marshy tract?

The Hon'ble MR. BUCKLEY replied:—

"The question has been under the consideration of Government, but the final reply to the representations made by the Chamber of Commerce has to be postponed until after the next rainy season, when the Officers of the Public Works Department will be extend the [illegible] to advise as to the best measures the Government [illegible] be in a better position [illegible] to be adopted, under the circumstances, to improve the [illegible] present channel."

OVERGROWTH OF VEGETATION ON BANKS OF THE RIVER KUMAR.

The Hon'ble BABU NORENDRA NATH SEN asked—

Is the Government also aware that thick jungles and rank vegetation are spreading to a large extent and encroaching upon inhabited villages on the banks of the river Kumar, in the district of Faridpur, to the great detriment of the health of the people of the locality, and if so, what steps has the Government taken to get them cleared and prevent their growth and spread?

The Hon'ble MR. BAKER replied:—

"The matter referred to in the question is one for the local authorities to deal with. Government has no special information on the subject."

FEVER IN FARIDPUR.

The Hon'ble BABU NORENDRA NATH SEN said—

Is it a fact that malarial fever is decimating a large portion of the rural population of the district of Faridpur, and is it also a fact that the mortality from fever alone has risen from sixteen thousand and odd in 1887 to forty-

97, however, the mortality was high, being 26·61 and 29, respectively, and is true, as suggested in the question, that there has been a large and steady se since 1887. This was brought to the notice of Government by the Sanitary Commissioner in his annual report for 1897, in which he quoted the following passage from the report of the Civil Surgeon:—

'During the year under report 52,895 people fell victims to it alone. . . . . .

'It is not confined to any particular locality, but visits almost every homestead in the district, which abounds in numberless *bhils* and swamps. All the conditions necessary for the production of malaria are to be found here in abundance, and to these may be added another factor which is every year gaining ground,—I mean the steeping of jute in every available pool or stagnant water. There is hardly a village—hardly a house—which does not go in for this trade, and the result is that not a [illegible] to be found which is not surrounded by stagnant water of a very [illegible] objectionable smell, thickened and [illegible]d black [illegible] repeated steepings of [illegible]

'On [illegible]paring the statistics of the last ten years, it will be observed that mortality from fever has been steadily on the increase. Thus, in 1887 we had only 16,024 deaths, [illegible],026 deaths in 1888, 22,287 deaths in 1889, 25,220 deaths in 1890, 31,368 deaths in 1891, 1,790 deaths in 1892, 40,558 deaths in 1893, 37,638 deaths in 1894, 43,144 deaths in 1895, and 48,056 deaths in 1896. I have no doubt that the imperfect system of recording vital occurrences in former years will go some way to explain this vast difference; but when the mortality from fever in 1897 exceeds that of 1887 by three times its number, I think it is impossible to disguise the fact that the health of the district has been steadily deteriorating.'

"In reviewing the Sanitary Commissioner's report, Government observed that the insanitary practice referred to was not peculiar to Faridpur, and directed the Sanitary Commissioner to ascertain the views of the Civil Surgeons of all jute-producing districts as to the effect of it on the health of their districts.

"No special report has yet been received on the subject, but the attention of the Sanitary Commissioner will again be called to the matter."

WANT OF MEANS OF COMMUNICATIONS IN FARIDPUR.

The Hon'ble Babu Norendra Nath Sen asked—

Is the Government also aware that owing to the complete absence of at permanent roads or canals in this tract of land, the people there, for

[*Babu Norendra Nath Sen; Mr. Baker; Raja Bahadur of Nashipur; Mr. Finucane; the President.*]

eight thousand and odd in 1896 in this district? Has the Government ascertained the causes of this frightful spread of fever, and have any measures been taken to remove them?

The Hon'ble MR. BAKER replied:—

"I answered this question jointly with Question No. IV of the Hon'ble Member's."

JOINT COLLECTION OF REVENUE AND CESSES.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said—

Having regard to the fact that the system of paying Government revenue, Road and Public Works Cess and Dâk Cess by one and the same chalan, has worked well in the districts of the Burdwan and Rajshahi Divisions, will the Government be pleased to extend this system to the remaining districts in Bengal?

The Hon'ble MR. FINUCANE replied:—

"The system in question has already been adopted in 22 out of the 43 districts to which it could be applied. Its further extension will be considered."

CALCUTTA MUNICIPAL BILL.

The Hon'ble MR. BAKER presented the Report of the Select Committee on the Calcutta Municipal Bill, 1898.

The Hon'ble THE PRESIDENT said:—"Gentlemen, I think that on behalf of the whole Council I may offer our thanks to the Members of the Select Committee on this Bill for the extreme patience and care with which they have discharged their very arduous duties."

The Council adjourned *sine die*.

CALCUTTA;

C. L. S. RUSSELL,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Saturday, the 5th August 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble NAWAB BAHADUR SYUD AMEER HOSSEIN, C.I.E.

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. F. HANDLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble MR. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

NEW MEMBERS.

The Hon'ble MR. BUCKLAND, the Hon'ble MR. HANDLEY, the Hon'ble MR. SLACK, the Hon'ble MR. APCAR, the Hon'ble MR. ASUTOSH MUKHOPADHYAYA, the Hon'ble BABU BOIKANTA NATH SEN and the Hon'ble BABU SURENDRANATH BANERJEE took their seats in Council.

[*Raja Bahadur of Nashipur; Mr. Bolton.*]

THE LALBAG SUB-DIVISION.

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR asked:—

Has the attention of the Government been drawn to the inconveniences felt by the people residing within the jurisdiction of the old sub-division of Lalbag in the district of Murshidabad owing to the abolition of the said sub-division and to the transfer of the civil and criminal jurisdiction of the thanas of Kalaynganj, now called Nabagram, and Sagardighi to the Kandi and Jangipur sub-divisions respectively, and to the orders recently passed by the District Magistrate withdrawing the powers hitherto been exercised without interruption for over four years by the Honorary Magistrates of Lalbag authorised to sit singly to take cognizance of offences on complaints and Police reports? Has the Government any intention to restore the Lalbag sub-division, and, if not, will the Government be pleased to re-transfer the jurisdiction over the thanas of Nabagram and Sagardighi to the Lalbag civil and criminal courts and to appoint a City Magistrate at Lalbag, or to order the Magistrate of Murshidabad to cancel the orders above referred to?

The Hon'ble MR. BOLTON replied:—

"The Lieutenant-Governor took the opportunity of enquiring locally into the matter referred to by the Hon'ble Member during the recent visit to Murshidabad, and has come to the conclusion that the restoration of the Lalbag sub-division is the most suitable arrangement. Steps will accordingly be taken to re-establish the sub-division, with jurisdiction over the area formerly attached to it."

INCOME AND EXPENDITURE ON ACCOUNT OF ROAD CESS.

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR said:—

Will the Government be pleased to lay on the table a statement showing the income derived from road cess and the expenditure incurred from that fund, item by item, in respect of the several districts of Bengal for every year from 1892-93 to 1897-98?

[*Mr. Baker.*]

The Hon'ble MR. BAKER replied:—

"I lay on the table a statement showing the income from Road Cess in each district for each of the years 1892-93 to 1895-96.

"As regards expenditure 'incurred from that fund' the question is not clearly understood. Under section 109 of the Cess Act of 1880, the receipts from Road Cess, after payment of the costs of assessment and collection, are payable to the District Fund, and there is no expenditure incurred specifically against them.

"If the Hon'ble Member requires details of expenditure on public works incurred by District Boards, the figures will be collected, but the operation may take some time."

nt of Road Cess Income and Road Cess Expenditure of the District Boards in Bengal from 1892-93 to 1895-96.

F DISTRICT.	Receipts of Road Cess during the year, after deducting the cost of collection and revaluation.				Total Cess expenditure, *i.e.*, expenditure on objects included in section 109, Act IX of 188 including repayment of loans with interest.			
	1892-93.	1893-94.	1894-95.	1895-96.	1892-93.	1893-94.	1894-95.	1895-96.
1	2	3	4	5	6	7	8	9
n Division.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
...	1,25,412	1,27,692	1,28,845	1,15,779	1,88,084	1,65,793	1,63,142	1,83,90
...	50,351	50,137	65,602	70,287	52,862	44,720	63,712	66,55
...	35,224	36,128	34,200	41,600	38,357	43,499	38,637	39,88
...	1,71,786	1,83,201	1,93,903	1,72,427	1,67,195	1,63,529	2,02,914	2,35,56
...	85,585	80,194	81,593	89,615	89,501	75,192	1,05,390	1,09,49
...	42,858	42,301	37,649	40,407	39,328	47,276	47,072	47,27
cy Division.								
...	1,09,864	1,13,613	1,10,857	1,10,029	2,22,498	2,14,936	2,14,503	2,17,23
...	58,021	69,088	77,190	70,930	68,396	67,518	87,502	82,287
...	62,257	68,827	69,563	65,186	72,682	78,825	95,225	68,67
...	80,352	86,496	83,878	77,655	1,32,775	1,19,113	1,25,840	1,19,72
...	61,362	61,724	70,079	72,643	85,344	67,565	83,697	76,55

Statement of Road Cess Income and Road Cess Expenditure of the District Boards in Bengal from 1892-93 to 1895-96—concluded.

NAME OF DISTRICT.	Receipts of Road Cess during the year, after deducting the cost of collection and revaluation.				Total Cess expenditure, *i.e.*, expenditure o objects included in section 109, Act IX of 18 including repayment of loans with interest			
	1892-93.	1893-94.	1894-95.	1895-96.	1892-93.	1893-94.	1894-95.	1895-9
1	2	3	4	5	6	7	8	9
Rajshahi Division.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Rajshahi ...	80,882	91,323	98,295	95,189	86,715	78,631	78,727	83,9
Dinajpur ...	91,394	82,184	83,149	88,376	1,74,410	1,58,727	1,00,015	1,40,9
Jalpaiguri ...	54,051	44,935	43,250	53,249	1,45,492	1,59,537	1,14,533	95,8
Rangpur ...	1,23,472	1,16,766	1,17,362	1,16,851	1,19,505	1,01,183	97,737	1,24,7
Bogra ...	50,148	49,033	60,827	58 162	52,873	40,909	56,261	77,4
Pabna ...	52,337	57,662	59,276	60,420	51,780	58,028	48,272	59,9
Dacca Division.								
Dacca ...	1,02,343	81,062	91,575	99,213	96,577	94,059	89,117	91,7
Mymensingh ...	1,65,067	1,69,400	1,62,423	1,56,879	1,92,025	1,47,965	1,56,799	2,00,2
Faridpur ...	52,636	47,924	58,626	59,819	71,424	67,935	55,376	68,0
Backergunge ..	96,556	1,27,359	95,459	1,75,335	96,992	1,36,308	1,35,150	1,55,1
Chittagong Division.								
Tippera ...	1,04,408	91,340	1,04 959	95,706	52,377	71,011	64,253	48,1
Noakhali ...	76,204	66,832	76,614	76,648	97,348	81,468	64,834	94,3
Chittagong ...	82,270	82,202	78,479	75,186	85,214	49,339	87,390	99,3
Patna Division.								
Patna ...	1,79,475	1,77,020	1,62,376	1,59,993	2,48,836	1,94,285	1,57,680	1,17,
Gaya ...	2,44,780	2,00,983	2,15,107	1,90,155	2,19,673	2,91,288	1,81,805	2,37,7
Shahabad ...	1,75,448	1,66,345	1,62,688	1,70,122	1,53,006	2,83,411	1,67,536	1,46,0
Saran ...	1,83,378	1,75,124	1,51,566	1,81,429	1,57,559	1,59,198	1,97,044	1,76,
Champaran ...	79,325	99,608	80,165	82,346	78 215	80,186	87,493	83,
Muzaffarpur ...	2,12,680	1,83,763	1,85,333	1,94,483	1,90,277	2,29,433	2,04,284	2,35,2
Darbhanga ...	1,96,742	1,98,166	1,95,615	1,91,520	5,06,988	2,01,853	2,20,186	2,18,0
Bhagalpur Division.								
Monghyr ...	1,46,550	1,35,969	1,28,632	1,29,545	1,06,609	1,46,526	1,55,386	1,52,
Bhagalpur ...	1,28,823	1,19,760	1,31,554	1,17,595	2,07,767	1,08,070	1,03,888	1,62,
Purnea ...	87,680	1,07,150	99,003	99,047	98,280	84,348	1,04,700	91
Malda ...	26,557	32,490	30,576	30,627	29,690	37,351	31,141	39
Orissa Division.								
Cuttack ...	54,200	60,071	61,570	55,688	50,687	66,517	70,394	5
Balasore ...	34,273	34,656	31,701	33,624	51,230	36,848	33,374	3
Puri .	31,526	32,209	31,840	32,076	28,129	25,050	19,544	2

[*Raja Bahadur of Nashipur; Mr. Baker.*]

ROAD AND PUBLIC WORKS CESSES.

The Hon'ble RAJA RANAJ T SINHA BAHADUR OF NASHIPUR said:—

Will the Government be pleased to furnish a statement showing the joint collection charges of the Road and Public Works Cesses for every year from 1877-78 to 1898-99, and the amount of costs borne by the District Boards and the Provincial Revenues, respectively?

The Hon'ble MR. BAKER replied:—

"I lay on the table a statement giving the information asked for, so far as it is available. For the first two years, 1877-78 and 1878-79, the amount debited to Local Funds was not shown separately and the figures cannot now be furnished. The figures for 1898-99 are not yet fully available.

"The statement below shows the collection charges of the Road and Public Works Cesses:—

		Total charges for collecting Road and Public Works Cesses	Amount debited to Government.	Amount debited to District Funds
		Rs.	Rs.	Rs.
1877-78	...	.....	10,270	.....
1878-79	...	.....	12,923	.....
1879-80	...	1,61,041	46,800	1,14,241
1880-81	...	1,73,146	46,800	1,26,346
1881-82	...	1,83,904	46,800	1,37,104
1882-83	...	2,35,201	46,800	1,88,401
1883-84	...	2,69,367	46,800	2,22,567
1884-85	...	2,34,253	46,800	1,87,453
1885-86	...	2,06,752	46,800	1,59,952
1886-87	...	2,25,560	46,800	1,78,760
1887-88	...	3,52,834	46,800	3,06,034
1888-89	...	3,23,363	46,800	2,76,563
1889-90	...	3,54,706	46,800	3,07,906
1890-91	...	4,25,216	46,800	3,78,416
1891-92	...	4,50,547	46,800	4,03,747
1892-93	...	3,14,743	46,800	2,67,943
1893-94	...	3,08,784	46,800	2,61,984
1894-95	...	2,92,445	46,800	2,45,645
1895-96	...	2,55,309	46,800	2,08,509
1896-97	...	2,88,963	46,800	2,42,163
1897-98	...	3,08,479	46,800	2,61,679"

[*Raja Bahadur of Nashipur; Mr. Bolton.*]

OUTRAGES ON WOMEN IN MYMENSINGH.

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR asked:—

Has the attention of the Government been drawn to the reports which appeared in the *Indian Mirror* of the 22nd June last and the *Hitabadi* of 13th, 20th and 27th *Jaista* 1306 B.S. and other newspapers regarding the outrages and assaults on women in the district of Mymensingh, and will the Government be pleased to state what steps, if any, it has taken in the matter?

The Hon'ble MR. BOLTON replied:—

"The statements which appeared in the newspapers attracted the notice of the Government, and reports were called for from the Magistrate of the district and the Commissioner. There has been no marked increase in offences against women during the present year, but many cases have occurred in recent years, the crime having been prevalent in the district for a very long period. During both Sir Charles Elliott's and Sir Alexander Mackenzie's administration orders were issued to ensure more effective investigation of cases and prosecution of offenders. The Police have not since been remiss, and many convictions, accompanied by heavy sentences, have been secured. These punishments have presumably not been without effect on the bad characters, but further special action appears necessary. The Lieutenant-Governor has accordingly sanctioned the deputation of Special Police Inspectors to the district, to assist the ordinary Police. These officers will take up all serious cases reported, and the detection of crime will, it is hoped, be more prompt and effectual. They will also be utilised for enquiries as to the propriety of proceedings against desperate and dangerous characters under section 110 (*f*) of the Code of Criminal Procedure."

WATER-SUPPLY IN THE MUFASSAL.

The Hon'ble RAJA BANAJIT SINHA BAHADUR OF NASHIPUR asked:—

Will the Government be pleased to lay on the table a statement, district by district, showing the amount spent on account of the water-supply in the mufassal and the number of wells and tanks excavated and re-excavated for the last five years?

[*Mr. Baker; Babu Jatra Mohan Sen; the President.*]

The Hon'ble MR. BAKER replied:—

"I will lay on the table a statement showing the amount spent on water-supply by District Boards and Municipalities during the five years 1893-94 to 1897-98. The other figures asked for by the Hon'ble Member are not available."

SALARIES OF MINISTERIAL OFFICERS.

The Hon'ble BABU JATRA MOHAN SEN said:—

Having regard to the sympathetic views entertained towards the ministerial officers by the Government, may I be permitted to ask whether the Government may be disposed to grant annual increment to the salaries of the ministerial officers, who are allowed under the present rules biennial increments? This arrangement, I venture to suggest, will not probably effect any appreciable alteration in the budget statement.

The Hon'ble MR. BAKER replied:—

"The views of the Government regarding the salaries of ministerial officers have been expressed on several occasions in this Council, and were stated again during the last budget debate. It has already been explained that the sanction of the Government of India is required under the rules before any general measure of the kind contemplated can be undertaken. Subject to such sanction, it is the Lieutenant-Governor's desire to take up the question when financial conditions permit: but His Honour does not consider that the conversion of biennial into annual increments would be an appropriate or economical method of dealing with it."

STATEMENT AS TO THE COURSE OF BUSINESS.

THE Hon'ble the PRESIDENT said:—"Gentlemen of the Council,—The first item on the list of agenda to-day is a statement—and it shall be a short statement—by the President as to the legislative business that will come before the Council during this season. It is probable that later on in the session a Bill will be brought before you for consideration in regard to the appointment and remuneration of the establishment of Civil Court amins. That will be a short

and simple Bill. Otherwise your time will be absorbed by the great and engrossing discussion regarding the Calcutta Municipal Bill. Under ordinary circumstances it would have been our duty to-day to commence the discussion upon the Report of the Select Committee which presented its opinions last April. As you all are aware, there has been received from the Government of India a grave and important despatch, in which the Government of India convey to us their opinion that there should be a meterial alteration in the construction of the Corporation of Calcutta. My answer to that as Lieutenant-Governor of Bengal is in your hands. To that answer I have nothing to add, and from that answer I have nothing to retract. It is now the business of the revived Select Committee to consider the recommendations which have been made to it by the Government of India. The Select Committee will be re-constituted to-day, and it will be its business to go through the draft prepared by the Select Committee of April and to determine in what way changes are necessary to give effect to the views of the Government of India."

CALCUTTA MUNICIPAL BILL.

THE Hon'ble MR. BAKER moved that the Hon'ble MR. MACKENZIE and the Hon'ble MR. APCAR be added to the Select Committee on the Calcutta Municipal Bill.

The Motion was put and agreed to.

The Hon'ble MR. Baker also moved that the Hon'ble BABU SURENDRANATH BANERJEE be re-appointed to the Select Committee on the Calcutta Municipal Bill.

The motion was put and agreed to.

The Hon'ble MR. BAKER also moved that the Calcutta Municipal Bill be referred back to the Select Committee for further consideration, with reference to the correspondence between the Government of India and the Government of Bengal, which was published in the Supplement to the Calcutta Gazette of

[*Mr. Baker.*]

the 12th July, 1899, and with instructions to report within two weeks. He said:—

"The object of this motion is to enable the Select Committee to consider the views expressed by the Government of India in their letter No. 93 of the 17th June last, which have received the acceptance of the Local Government.

"After the remarks that have fallen from His Honour the President, it is not necessary for me to enlarge upon the proposals put forward by the Government of India. Those proposals and the reasons for them have been before the Public since the 12th of last month, and are no doubt familar to all Members of this Council. They are four in number. Firstly, it is proposed to reduce the number of Ward Commissioners from 50 to 25, so that the Corporation shall consist of [illegible] Commissioners, of whom one half are elected at ward elections and one half are appointed by Government or nominated by special constituencies. This plan follows generally the model of the Bombay Corporation. Secondly, it is proposed to follow the same model in respect of the constitution of the General Committee, and to provide that of the total number of 12 members, eight shall be elected by the entire Corporation and four shall be appointed by Government. Thirdly, it is proposed to enact provisions to secure that the proportion of the General Committee which is to be elected by the entire Corporation, shall be a strictly fair and proportionate representation of the constituents of the electoral body. And fourthly, it is proposed to lay down rules for the appointment of Special and Sub-Committees which shall secure their being truly representative.

"These proposals, if adopted, will involve comparatively few changes in [illegible] Bill as now amended, and the Select Committee should have no difficulty in [illegible] to a decision upon them within the time allowed.

[illegible]ere is, however, another point as to which I wish to say a few words; [illegible]h it arises directly [illegible] of the proposals of the Government of India, [illegible]pressly mentioned in the correspondence. I refer to the initial [illegible] for constituting the first body of Commissioners under the new [illegible] within the recollection of Members that the Select Committee [illegible] 25 Commissioners appointed by Government or nominated [illegible]mmerce, the Trades Association and the Port Trust should [illegible] the 1st April, 1900, the date on which it is expected

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"After the remarks that have fallen from His Honour the President, it is not necessary for me to enlarge upon the proposals put forward by the Government of India. Those proposals and the reasons for them have been before the Public since the 12th of last month, and are no doubt familar to all Members of this Council. They are four in number. Firstly, it is proposed to reduce the number of Ward Commmissioners from 50 to 25, so that the Corporation shall consist of [illegible] Commissioners, of whom one half are elected at ward elections and one half are appointed by Government or nominated by special constituencies. This plan follows generally the model of the Bombay Corporation. Secondly, it is proposed to follow the same model in respect of the constitution of the General Committee, and to provide that of the total number of 12 members, eight shall be elected by the entire Corporation and four shall be appointed by Government. Thirdly, it is proposed to enact provisions to secure that the proportion of the General Committee which is to be elected by the entire Corporation, shall be a strictly fair and proportionate representation of the constituents of the electoral body. And fourthly, it is proposed to lay down rules for the appointment of Special and Sub-Committees which shall secure their being truly representative.

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[*Mr. Baker.*]

that the Bill will come into force · but that at the instance of the members representing the Corporation, it was provided that the 50 elected Ward Commissioners under the present Act should retain their seats until 1st April, 1901, the date up to which they would have been entitled to sit if there were no change in the law. This arrangement was urged upon us with a view to avoid the trouble and expense of holding a fresh general election in advance of the usual date. As the original Bill proposed no change in the number of the Commissioners, there seemed no good reason why the wishes of the representatives of the Corporation should not be acceded to: and for this reason the Select Committee agreed to adopt them.

"But if, in accordance with the views of the Government of India, it is now decided to reduce the number of elected Commissioners to 25, it is no longer possible to allow the old Ward Commissioners to retain their seats when the new Act comes into force. They will have to vacate their seats, like the nominated Commissioners, and arrangements must be made to constitute an entire new body of Commissioners, who shall hold office from 1st April, 1900. As regards the nominated Commissioners, there is no difficulty. The Bill already provides for their appointment in advance of the necessary date, and no change is required. But as regards the elected Commissioners the matter is less simple. We cannot hold an election under the new Act in advance of the due date, because under the Bill changes have been made in the procedure for holding elections. The preparation of an election-roll has been made compulsory, and the compilation of this must be taken up in the month of September preceding the elections. These condition could not, for obvious reasons, be carried out in respect of the first general election if that is held before the Act comes into general operation. It accordingly been suggested that the first general election should be h March, 1900, under the provisions of the present Act of 1888, with the that each ward shall elect only one Commissioner instead of two · Commissioner so elected shall hold office under the new Act, from th 1900, for the usual term of three years. This is the solution o which commends itself to Government as at present advised, a before the Select Committee, with a view to the necessary made in the Bill. Government, however, does not desire plan, and if any Member has a better solution to offer, Committee to consider it."

[*Mr. Apcar.*]

The Hon'ble MR. APCAR said:—"I crave the indulgence of the Council, nich I am sure will be extended to me by yourself, in consideration of the cumstances that I appear here for the first time to-day, and because of the esent ncture relating to the great and engrossing subject which Your Honour s referred to, namely, the Calcutta Municipal Bill.

"If I am in order, I desire to explain, in order that I may not be put into false position, the reason why I ask for an adjournment of the Council to abl me to prepare myself to represent the interests I have come here to pre ent. Your Honour is aware that there have been circumstances that layed my appointment as a Member of this Council being made, and as a tter c fact it was not made until the 18th July last. I could not be expected ore y appointment was made to begin to prepare myself for the considera- a o the subjects to be brought before this Council. I have found that my tention has been required to be given to an overwhelming mass of material nich has occupied my time wholly. I have been most anxious to learn what e course of business at this meeting would be, but I have for various reasons nich are known to you, Sir, wholly failed to learn anything with certainty til Thursday last; and therefore I could not, I dared not, stop my study of e subject as a whole to give my mind to the preparation of any particular atter. I do not seek to attach blame to any one for my being left uninformed to the business to be brought forward. I certainly have not, on my part, en remiss in any way, and the fact remains that I tried my best and I ceived no notice of the business until very lately. And, lastly, my atten- on was drawn to certain points of detail in the Bill which I have not had me to consider, but to which I have thought that I ought to give my tention with the view of proposing amendments to help the Council. That stracted my attention and threw me back, and I am now in the position that have not got the papers I require and I am not prepared. If Your Honour sires that I should go on, I shall do so; but I shall be better able to do so if allowed an extension of time, and I shall be glad if you, Sir, will see your ay postpone the further consideration of the matter now before the Council next Saturday. I leave myself entirely in your hands, feeling sure that very consideration will be shown to me, and that Your Honour will do what is ght under the circumstances."

[*The President.*]

The Hon'ble the PRESIDENT said:—"Gentlemen,—I think it would be the wish of all of you that every reasonable consideration should be given to any Hon'ble Member of this Council, particularly to a newly-joined Member, who has described the difficulties of his position in the very feeling language in which the Hon'ble Mr. Apcar has described his difficulties to you. But I venture to think that the question upon which he and other Hon'ble Members of this Council wish to address us is, after all, however grave, not a very complicated or difficult subject. The issue before us at this moment is simply the proposal of the Government of India as to the alteration in the constitution of the Corporation. These are, as I have said, grave matters in which we are all deeply interested, and upon them there are very strong and differing opinions. But the issue is not one which requiries great study or extremely elaborate application. And therefore I think it will meet all purposes of Hon'ble Members of this Council if, in order to give time to finally prepare themselves upon an issue of this description, I adjourn the Council till Monday. The Council is accordingly so adjourned."

The debate was adjourned to Monday, the 7th August, 1899.

CALCUTTA;
The 23rd August, 1899.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

ct of the Proceedings of the Counc. of the Lieutenant-Governor of Bengal, ssembled under the provisions of the Indian Councils Acts, 1861 and 1892.

HE Council met at the Council Chamber on Monday, the 7th August,

Present:

he Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*
he Hon'ble NAWAB BAHADUR SYUD AMEER HOSSEIN, C.I.E.
he Hon'ble MR. W. B. OLDHAM, C.I.E.
Hon'blo MR. R. B. BUCKLEY.
Hon'ble MR. C. W. BOLTON, C.S.I.
Ion'ble MR. E. N. BAKER.
ee on'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
hon'ble MR. C. E. BUCKLAND, C.I.E.
ontr n'ble MR. F. F. HANDLEY.
ropon'ble MR. F. A. SLACK.
will n'ble BABU JATRA MOHAN SEN.
e S'ble MR. T. W. SPINK.
glis'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.
lis'ble MR. D. F. MACKENZIE.
ble MR. J. G. APCAR.
DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
ble BABU BOIKANTA NATH SEN.
ble BABU SURENDRANATH BANERJEE.

CALCUTTA MUNICIPAL BILL.

'ble THE PRESIDENT read the Hon'ble MR. BAKER's motion that
nicipal Bill be referred back to the Select Committee for
ation with reference to the correspondence between the Gov-
a and the Government of Bengal, which was published in the
Gazette of the 12th July, 1899, and with instructions

[*Babu Surendranath Banerjee.*]

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the President, moved the following amendments to the above motion, viz.—

(*1*) *for* "two weeks" *substitute* "six weeks";

(*2*) *add* at the end the words "and that the opinions of the Corporation and other public bodies be invited with reference to such correspondence."

He said:—"Sir, my first words will be words of regret at the retirement from this Council of my friend Babu Norendranath Sen. I do not in the smallest degree desire to make any reflection upon my hon'ble friend to my left who so worthily represents the Corporation, and in whose hands I am sure the interests of the rate-payers of Calcutta in regard to the Calcutta Municipal Bill will be perfectly safe. But the tide of human circumstances sometimes demand from us. *Hinc illæ lachrymæ*—sang Virgil in the olden times. T were associated with Babu Norendranath Sen in his arduous labou nection with the early stages of the Calcutta Municipal Bill the regret that he has not been permitted to participate in th anxieties amid the closing scenes of the final struggle.

"However that may be, now that we have been placed once fortunate accident in possession of our deliberative functions, if we a mistake, we may rectify it, if we have acted, I will not say of, but if we have acted not in conformity with, the dictates of p we may now pay that ampler homage to public sentiment which to me, is imperatively called for at our hands in dealing with as this, affecting as it does the habits and every-day lives of th a municipal measure is essentially a measure of sanitation, and it may be successful, that it may promote the great ends of must enlist the sympathies of the people on its side. By no stretc however, can it be said that the Municipal Bill, even as revised Committee, has secured the sympathies or the support of the whom it most deeply affects. On the contrary I will say this whole course of my public life, now extending over the space of of a century, I have not witnessed a measure which so profou hearts and excited the apprehensions of the people of done. Their apprehensions may be well-founded

published for the first time. In the
.ely unsustainable. They make a revela-
my duty to ask my hon'ble friend in charge
an explanation."

The Hon"
moved the PRESIDENT said :—"I apologise for interrupting the
this is a point of order. I cannot permit any discussion
en by the Government of India at the beginning of their
to which we are limited is the discussion of the changes
ch the Government of India have desired should be made. I
any discussion of the reasons which have led the Government
me to their decision."

he Hon'ble BABU SURENDRANATH BANERJEE said:—"With your permission
e to make one observation, namely, that the grounds to which I desire
larly to call the attention of the Council are grounds which do not appear
letter of the 7th March, 1898. These grounds are absolutely new; there-
ore they are not covered by Your Honour's ruling that these matters have
been decided."

The Hon'ble THE PRESID —"I regret I can hear no discussion on
that point."
he has not been
the closing scenes of the

The Hon'ble BABU SUR r that may be, now that we hav That being the ruling
of Your Honour, I shall prog ent in p ENT said: — berative hich have been
made in the letter of the G may re are open to
challenge and contradiction have acte ENDRANATH BANERJEE said:—" I will not sa
such statements, a case has pay that eed to lay before you statements wias of p
of Enquiry." peratively vernment of India, statements which
ting as it do and therefore it seems to me that, having rega
The Hon'ble THE P measure is been made out for the appointment of a Comm
discussed in Council be successful,
with the remainder of the sympa
be re-opened." can it be sa RESIDENT said:—"This is a point which has
The Hon'ble BABU has secutore. I must ask the Hon'ble Member to p
in the letter of the ost deeply his speech. These are points which I cannot al
t which I think arse of my p
ry, I have n SURENDRANATH BANERJEE said:—"I want to
heart d excited the Government of India there is one matter which
done. Their apprehe limits of discussion. The Government of In

[*Babu Surendranath Banerjee; the President.*]

:hat the broad principles of Local Self-Government are to be
:hat they are to be so re-cast as to check abuses and secure the
administration. If abuses are to be discovered and to be chec
way of discovering and checking them is by the appointment of
.uiry."

'he Hon'ble THE PRESIDENT said:—"I must repeat that
.scussed and decided by the Council, and I cannot perm
d."

The Hon'ble BABU SURENDRANATH BANERJEE continued:—'
.our's decision and will leave that point. The Governme
7th paragraph of their letter say:—

The Government of India cannot fail to realise that they have a sp
case. It would be strange indeed if they did not feel a pecu
e affecting the municipal constitution of a city, which is not merely
f Bengal, but also the seat of the Imperial Government an
. They are deeply persuaded of the importance of a lo
juately represent the various great interests that have plac
premier position in India, and which shall be businesslike,
or reproach. At the same time it would be their natural des
.tinuity of administration and of public harmony, to see the
y any contravention of the broad principles of Local Self-Govern
, but by a curtailment of the abuses to which in practice they
exposed, and by a restriction within limits suggested by experience, of the r
operation. In these opinions the Government of India are convinced
ympathy of the Lieutenant-Governor.'

"As I read this paragraph I take it to mean that no chang
municipal system of Calcutta are to be introduced which woul
vention of the broad principles of Local Self-Government al
If I am able to show that the proposals of the Governm
in direct conflict with their avowed policy and the principle w
lay down, I am entitled to ask the Government for a re-consid
detailed proposals. [The Hon'ble THE PRESIDENT said:—"Th
egitimate argument."] What then, Sir, are those broad pr
Self-Government which have already been conceded and
have not only been assailed but completely superseded by the

[*Babu Surendranath Banerjee.*]

of India? These principles may be classified under thre

first place, the paramountcy of the Corporation was affirmed
ion was declared to be the one supreme authority
of municipal affairs, fixing the rates, controlling expen
nce, making the superior appointments, in short, contr
rising the affairs of the town. This was no new con
ntcy of the Corporation had been recognized in the
Corporation under the Justices. The principle was
1876. In the second place, and this I regard as the domina
great concession of 1876, the rate-payers of Calcutta w
first time allowed to elect their own representatives in
wo-thirds of the entire number of the Corporation. In o
ernment of Calcutta, the control of its municipal affairs, w
finitely entrusted to the representatives of the rate-p
ner-stone of the great system of 1876—the essence of
l Self-Government that were then conceded—ang
of the system which is now seriously menaced by en
ent of India. Lastly, as a safeguard, because the to
ts powers and functions in this matter, the Governme
right of control over the Municipality, a control, however,
sed from without and not from within. These were the t
—especially the second—that formed the prominent features of
f 1876. Now the proposed system of co-ordinate authorities is
with the paramountcy of the Corporation. Make the Chairman
Committee co-ordinate authorities, make the representative
sessed of only certain definite powers, and the supremacy of
is at an end. With regard to this matter, I must say that the
ernment of India gives a very uncertain sound. Nowhere
ument of India distinctly approve of the system of co-
ies; nowhere does it disapprove of it, though it quotes with
trong expression of opinion from the dissenting members,
k of an emasculated Corporation recently in possession
ity, viewing with uneasiness, if not with jealousy, the estab-
dinate authorities. I hope the principle of co-ordinate

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authorities has been abandoned. I hope the Hon'ble Mem r in charge of the Bill will be able to give us that assurance. I hope he wi. not tell us that the passage is quoted with a view to show that in the absence of homogeneity there will be friction, there will be a conflict and a collision of interests, and that therefore the popular element in the Corporation must be curtailed. Then as regards the powers of control reserved to the Government under this Bill, the Government of India is in perfect agreement with the majority of the Select Committee. I thought it was possible that there was one feature in the recommendations of the Select Committee which would not commend itself to the approval of the Government of India. The Select Committee provided that, notwithstanding an appeal to the Government of India against the orders of the Government of Bengal, the injunctions and orders of the Local Government in regard to the works which were the subject of appeal should be carried out and the works proceeded with. I find that in regard to this part of the Bill the Government of India is in perfect agreement with the majority of the Select Committee. Let me ask what is the good of an appeal, if the works are to be proceeded with ?

"Suppose the appeal is successful, but that in the meantime the works have been carried out, that would mean so much waste of time, labour and money. I hope this part of the Bill will be re-considered. As regards the powers of control, they have been rendered far more stringent under the Bill, and the proposed changes in the law have been approved by the Government of India. I will not repeat the arguments which I have already urged from my place in the Select Committee. These provisions are apparently based upon the English Public Health Act, but they go much beyond the scope of the English Act. Under the English Public Health Act, the control of the Local Government Board is confined to sanitary measures. Under the Bill the control of the Local Government may extend to *all* matters, sanitary or other- Under the English Public Health Act the Local Government Board may interfere upon complaint made—that used to be the Municipal Law of Calcutta. Under the Bill the Local Government may interfere upon application without any complaint of any kind being made. Under the English Act the Local Government Board can only realise the sum actually due from the defaulting local body. Under the Bill the Government may raise the rates and may even contract a loan. It is thus very evident that the

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powers of the Government over the Municipality will be largely added to, while, as I have hope to be able to show, the authority of the representatives of the people will be practically extinguished.

"But it is the proposals of the Government of India to reduce the number of Commissioners and to confine the reduction exclusively to the elected branch of the Corporation that seem to me to completely supersede the concessions made in 1876. They restrict, and indeed practically abolish, Local Self-Government in Calcutta. To reduce the number of Commissioners is to restrict the diffusion of local interest. To reduce the elected element in the Corporation so as to place it to a hopeless minority is to lay the axe at the root of the system of Local Self-Government in Calcutta.

"In the first place let me address myself to the proposal for the reduction of the number of Commissioners. Jeremy Bentham has observed in his Theory of Legislation that when a change in the law is proposed, it is incumbent upon those who propose the change to make good their case. All the more is this duty incumbent upon them, when the change proposed affects a scheme of legislation which is of long standing, which is consecrated by prescription, and which has come to be bound up with the civic life of the people. Now ever since there has been a Corporation in Calcutta, extending over a period close upon forty years, the number of Justices or Commissioners, for the members of the Corporation were known under these two names at two different periods of their history, was never less than 72 and sometimes exceeded 120. From 1863 to 1876 the municipal affairs of Calcutta were controlled by the Justices. Their number, unlimited at first, was over one hundred in 1876. When the Corporation was re-constituted upon an elective basis in 1876, the numb was fixed at 72, and that was the number from 1876 to 1888. In 1888, when Municipal Law was revised, the number was raised to 75, though with an ex sively added area which was now for the first time included within jurisdiction of the Municipality. Thus from 1863 to 1899, for a extending beyond the life-time of a generation, the number of Mu Commissioners has never been less than seventy-two and has som exceeded one hundred. Look at the question from another point No Lieutenant-Governor from 1863 to 1899 ever recommended the reducti of the number to what is now proposed by the Government of India. Ma Lieutenant-Governors, possessed of the largest local experience and intimate

acquainted with our municipal affairs, have expressed themselves in favour of the higher number of 72 or 75. If, therefore, in spite of what has been the accepted constitution of the Corporation ever since there has been a Corporation, in spite of the overwhelming consensus of opinion on the part of responsible Rulers of the Province, it is proposed to reduce the number, the change can only be justified on the strongest grounds supported by the clearest necessity. A mere desire to correct an illogicality of form will not do. The reasons must be so self-evident, so palpable, so overwhelmingly impressive in their character as to carry home conviction to the most untutored mind. Have we such reasons disclosed to us in the letter of the Government of India? Let us examine the letter somewhat closely. The Government of India say in the 13th paragraph of their letter:—

'The Government of India have been struck, in their examination of the grounds advanced both by Sir Alexander Mackenzie and Sir John Woodburn for the measure, by the allegation that the existing Corporation has devoted itself to speech and to criticism rather than to action. This charge, while doubtless to some extent due to the temper and spirit in which it has approached its work, is in the main to be attributed to the considerable and, as it would seem excessive, numbers of the municipal body. Their numerical strength, when viewed in regard either to the number of electors by whom the majority are returned, or to the experience of municipal institutions elsewhere, seems to be disproportionately and unnecessarily large. There can be no reason why a number of voters returned as only 13,890 out of a total ward population estimated at about 650,000, or a proportion of little more than 2 per cent., should return as many as 50 members; or why the interests of a city even of over 381,000 inhabitants should require the services of 75 Commissioners for their proper protection. The Government of India are disposed therefore to think that a most effective, though hitherto unsuggested, check upon the abuses and anomalies complained of might be found in a reduction of the numerical strength of the Corporation.'

"The Government of India say that the Commissioners are devoted to criticism rather than to action; and with a view to prevent the waste of time in frivolous talk, it is deemed necessary to reduce the number of Commissioners. I respectfully venture to join issue with the Government in this statement of facts. I go further and I contend that even if the facts were such as they are represented to be, they would involve no reflection on the character of the Corporation for, by its constitution, the Corporation is a deliberative body; its function is to discuss, to criticize and to resolve upon action. There never was a greater authority on municipal affairs than Sir Henry Harrison—to him belongs the unique honour of being quoted by the friends as well as the opponents of this Bill,—and he says that 'the Executive alone can push on the works.'

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But I respectfully decline to accept the statement that the Commissioners are given to criticism rather than to action. If that were so, how are we to account for the magnificent sanitary works which have changed the face of Calcutta and have made it, despite the plague, one of the healthiest cities in the Province? Again and again has this been brought against the Corporation, and as often it has been refuted. Many of the eminent men, who, from time to time, have presided over the deliberations of the Corporation, have defended it against an imputation which it has not deserved. We all remember Mr. Lee, whose early death we so deeply deplore, and the very last words which he said from his place as Chairman—words to which his early death has imparted a pathetic interest—were these :—

'Less frequently now than of old, because the outside public is better acquainted with the facts, but still, occasionally, we hear insinuations that much time is wasted in this hall by long speeches from the Municipal Commissioners. No charge could be further from the mark. In all my experience—and that has covered full three years—I have seldom listened to a speech that has not been useful and to the point. I can hardly recall a single instance in which I have made the reflection that the speaker was throwing no new light on his subject and was simply speaking to make a speech. The facts, indeed, are conclusive. In the course of the year you held some 30 general meetings. All the proceedings of every Committee meeting, of which some 250 are held in the course of the year, come before you in this hall for review. A single Committee will frequently deal with 20 or more separate matters, and you have on the average to review proceedings of such Committees at each single meeting in this hall, so that you dispose of sometimes 120, seldom less than 40, items of business at a sitting. How long do you take over it? As a rule, between one and two hours! Who could say with fairness that that is excessive? How many similar deliberative bodies in the world are there that would dispose of the work in less time? The general rule that we endeavour to observe is not to speak without special knowledge and clear opinion and then to express our thoughts in language as brief as we can make it.'

"I would like to repeat with Mr. Lee the question—'How many deliberative bodies in the world would dispose of work in less time!' The same charge has been brought against deliberative bodies of even higher status and dignity, and has been dismissed as unworthy of notice. Let me quote the observations of Sir Henry Fowler in the recent debate in Parliament on the Calcutta Municipal Bill:—

'He was not sure that the Mother of Parliaments was free from that objection. With the Englishman who understood the working of Parliamentary and Municipal and Local Self-Government in all its ramifications, those objections would not weigh against the general principle of enlisting the people in their own Self-Government.'

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"Even if it were admitted for argument's sake that there were prolonged ates in the Corporation which involved waste of time, is the remedy to be nd in the reduction of the number of elected Commissioners? Here, again, am able to rely upon the high authority of Sir Henry Harrison, who was of inion that the matter of number was immaterial, that there would be only a ew Commissioners, the leading Commissioners, who would speak and the others would be quiet listeners. Sir Henry Harrison, speaking in the course of a debate in this Council on the 4th February, 1888, said:—

'At the same time I attach very little importance to this point. I do not believe there will be any practical difficulty in working, whether the number of Commissioners be 75, or 60, or 80, because we know that the time taken up by discussion does not depend on the total number of Commissioners present, but upon those Commissioners who wish to speak, and in a Corporation of even 40 members, the leading Commissioners would, for the most part, be returned, and these would take an active part in the discussion as at present. I do not think that in this respect there would be any great difference in a body of 40 members, and a Corporation of 80 Commissioners, of whom 15 or 16 would, as a rule, take part in the discussions. Practically, therefore, I attach little importance to the number of the Corporation. We only revise the work of the Committees in general meetings of the whole body of Commissioners.'

"My own experience entirely confirms the opinion of Sir Henry Harrison, and, if so, the reduction of the number, looked at from this point of view, is wholly unnecessary.

"Then it has been said the number is excessive when viewed in connection with the experience of similar institutions elsewhere. Here, again, I find myself at variance with the facts as stated by the Government of India. I hold in my hand a statement which shows that in some of the great towns in the United Kingdom with a less numerous and a less homogeneous population, the number of Commissioners varies from sixty-four to over one hundred. I will read from the table:—

Names of towns.	Population in 1896.	Number of Municipal Commissioners.
Glasgow	705,052	78
Edinburgh	276,514	41
Manchester	529,561	104
Birmingham	501,241	72
Liverpool	632,512	64
Sheffield	347,278	64
Leeds	402,449	64

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"Looking at the figures which I have just read, and having regard to the population of Calcutta, which is over 650,000, and is certainly more diversified than that of any of the English towns to which I have referred, it cannot be said that the present number of Commissioners is excessive as compared with those of other towns.

"Then, again, it has been said that the number of Commissioners is large as compared with the paucity of voters. The fact is lost sight of that we have no universal suffrage here, and the qualifications of voters are determined by law. Every rate-payer is not a voter. It is only those who pay rates and taxes to the extent of Rs. 24 a year who are entitled to be voters. You lay down an artificial limitation and then you find fault with the system. The representative character of the Ward Commissioners is, however, not to be judged by the number of those who vote for them. They represent the rich and the poor alike. I would remind the Council of that well-known provision in the Municipal Law which allows poor house-owners to claim a lower percentage of valuation. These applications are all sent to the Ward Commissioners for their opinion. These men have no votes. They are far too poor to have any votes. The Ward Commissioner is their representative as well as that of the richer voters in the ward.

"I am free to admit that the question of number is one more or less of opinion. But whether as regards the number or the strength of the representative element in the Corporation, you cannot lose sight of the past history of Calcutta or the policy which the Government has hitherto pursued. If we had a *tabula rasa*, we might inscribe on it what we pleased. But Calcutta has a municipal history, and that history has created associations and ideas in the public mind which no responsible legislator can ignore. Municipal institutions, like all other institutions, are a matter of growth. Our municipal institutions, though English in their origin, have taken a firm root in the Indian mind because they are so entirely in accordance with our ancient institutions, the panchayet system and the village communities. Any violent change involving a disturbance of these institutions along the lines in which they are accustomed to move would be a shock to popular feeling which no Legislature can ignore. I should be false to myself and to my representative character if I did not say from my place in this Council that the proposals of the Government of India as regards the reduction of the number of Commissioners, and especially as regards

the strength of the representative element, have excited the deepest alarm and apprehension in the public mind. We argue somewhat in this way—it may be that we argue in our ignorance or in our innocence—but the line of argument we adopt is somewhat as follows:—If it is considered necessary to cut down talk by reducing the number of Commissioners, why apply the pruning-knife to the elected branch of the Corporation and keep intact the number of nominated Commissioners? The nominated Commissioners can talk just as much and just as eloquently and sometimes just as tediously as the elected Commissioners, as my hon'ble friend Mr. Oldham will be able to say. If the object be to curtail talk, there ought to be a reduction all round; but instead of that, it is the elected element alone that is to be cut down.

"Distasteful as the reduction of the number is, it is the curtailment of the elected element in the Corporation, while the number of official and nominated Commissioners remains the same, which has filled the community with alarm and astonishment. Here again the orders of the Government of India involve a violent disturbance of the municipal traditions of Calcutta. Ever since the Corporation has been re-organized upon a popular basis, the rate-payers have ijoyed the right of electing two-thirds of the entire Corporation. Sir Richard emple was indeed prepared to go further. He was willing to raise the roportion of elected Commissioners to three-fourths of the entire number, if the egislature agreed to fix the number of Commissioners to be elected by the fferent nationalities. The matter again came up for consideration in 1888, ien the municipal system of Calcutta was revised. There were two nflicting proposals. Mr. Irving, representing the Trades Association, moved this Council for the reduction of the number of Commissioners to 60 d the representative element to one-half. Babu Kali Nath Mitter moved at the number be raised to 80 and that three-fourths of the entire mber be elected by the rate-payers. The Government objected to both e proposals and the spokesmen of the Government were Sir Henry Harrison d the late Mr. Colman Macaulay. Sir Henry Harrison observed:—

'I think we ought to follow the old lines as laid down in the Bill, which allows two-rds of the Commissioners to be elected by the Wards, and I therefore trust the Council will e fullest consideration adhere to the proposals before them in the Bill.'

"You must not imagine that the arguments of Sir Henry Harrison were ed upon mere sentimental considerations, or that he was actuated by the

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mere desire to preserve what is old. What he said in effect was this—that if the number was reduced and if the elected element was reduced to one-half, the business would suffer, for it would be difficult to get the European Commissioners to attend. He, therefore, objected to Mr. Irving's proposal, not on sentimental but on practical grounds of the highest moment. Let me in this connection quote the remarks of Mr. Colman Macaulay, who for many years was Secretary to Government in charge of the Municipal Department, and afterwards became Chief Secretary:—

'I oppose the amendment of the Hon'ble Mr. Irving on the ground that it involves the contraction of both the principle of election and that of representation.'

"Again:—

'I think that, looking to the experience we have had of the working of the elective system as a whole, we should be fully justified, were we in the position of our predecessors, the Legislators of 1876, in taking the proportion of two-thirds elected by the rate-payers. For this reason I will certainly oppose my friend the Hon'ble Mr. Irving's amendment.'

"It is now proposed to undo the past, to discard the lessons of the past, and to deprive the rate-payers of Calcutta of the proportion of representation which they have hitherto enjoyed with the full concurrence of the Government since 1876, and which even Sir Alexander Mackenzie did not want to deprive them of. If the object be to strengthen European representation, surely it is not necessary to curtail Indian representation in the Corporation. There are the European wards which may elect European representatives; there are the special European constituencies which may return European members; and there is the Government with its reserve power of nomination which may appoint European Commissioners. I have a complaint to make against the European community and the Government in this matter. The European community has not availed themselves of the opportunity created for them by the Government, and the Government has not exercised the power it possesses of balancing inadequate European representation. If the Government and the European community had done their duty in the matter, the complaint of inadequate European representation would never have been heard. And surely a [illegible] cannot be said to have failed when it has not been fairly tried. The [illegible] what Sir Henry Harrison said in 1888 from his place in this Council [illegible]

'And then as regards the power of nomination this gives a power which the Government has never used to the fullest extent. It has never so used the power of nomination exclusi[illegible]

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to strengthen the motive power in the Corporation, and this ought to be tried before the fundamental proportions are changed.'

"But, Sir, it has been said that the reduction in the proportion of the elected element in the Corporation follows the Bombay model. The words used are that 'the Bombay model is faithfully reproduced except as regards numbers.' Here, again, I am constrained to dispute the position of the Government. But if it were otherwise; if the proposals of the Government involved a faithful imitation of the Bombay model, which they do not, even then I should be disposed to object. What have we got to do with the Bombay municipal system? The municipal history of Bombay is different from ours. Its traditions are not our traditions. We are proud of our municipal system, the product of the wisdom and statesmanship of distinguished Bengal Civilians. It is very much in advance of the Bombay system. In Bombay only one-half of the members of the Corporation are elected by the rate-payers; here in the Calcutta Corporation two-thirds of the members are returned by the rate-payers. In the municipalities in the interior of the Bombay Presidency only one-half of the members are elected; in our municipalities in the interior two-thirds of the members are elected. In the Bombay Presidency as a rule, the municipalities in the *mufassal* do not elect their Chairmen; in Bengal as a rule they elect their Chairmen. Are we to be deprived of a precious right which we have learnt to value and to cherish merely to satisfy the demands of logical precision? Logic is a great art, but it scarcely enters into the calculations of the Legislator. If it is illogical to have two-thirds of elected representatives in the Corporation and only one-third in the General Committee, why not meet the requirements of logic by raising the proportion of elected members to two-thirds of the entire body in the General Committee? If the demands of logical necessity may be satisfied by a downward as well as by an upward movement, why prefer the downward movement? Is that consistent with the dignity and the statesmanship of the Government of India? As a dissenting member of the Select Committee, I have recorded a strong protest against the introduction of the Bombay system. But if the Bombay system is to be forced upon us, let us have the system in its entirety, with its good and bad features, with its defects as well as its points of excellence. I venture, however, to challenge the position that we have a faithful reproduction of the Bombay

system in the proposal of the Government which I am now considering. Let us examine the facts:—

"There are 72 Commissioners in the Bombay Corporation, elected and nominated, as follows:—36 elected at the ward elections, 16 elected by the Justices, 2 elected by the Chamber of Commerce, 2 elected by the University, and 16 appointed by the Government. The wards, I think, we may fairly take it, are Indian constituencies; the University and the Justices are also Indian constituencies; the bulk of the Justices and the bulk of the Fellows being Indians. There are 572 Justices, of whom 335 are Indians; there are 342 Fellows of whom 208 are Indians. Therefore we have this fact, that the wards are Indian constituencies, the Justices and the University are Indian constituencies; and these three constituencies between them return 54 out of 72 Commissioners, or three-fourths of the entire Corporation. Will that be the case in connection with the constitution of the Calcutta Corporation under the orders of the Government of India? I say no; and I am sure you will say no, when you have heard me. The Calcutta Corporation, as it will be re-constituted in accordance with the proposals of the Government of India, will consist of members who will be nominated and elected as follows:—25 Commissioners will be elected by the rate-payers, 10 will be returned by special constituencies, and 15 will be nominated by the Government. The 25 Commissioners elected at the ward elections will be Indians; I take it that they will be Indians, though I do not think they will all be Indians; for the European wards, after this unhappy strife will make serious efforts to return European representatives; but I will take it for argument's sake that the 25 elected Commissioners will be representative of Indian interests. The 10 members returned by the special constituencies will be Europeans, and the 15 appointed by the Government will be representative of interests other than those of the Indian rate-payers. Thus in a Corporation of fifty members, with the official Chairman, the representatives of the rate-payers will be in a minority, and if the European wards return European representatives, the popular element will be in a hopeless minority. In the Bombay Corporation the representatives of the Indian rate-payers are in a majority; in the Calcutta Corporation, as it is now about to be re-constituted, the representatives of the Indian rate-payers will be in a minority, and perhaps in a hopeless minority. Is this, I ask, a faithful reproduction of the Bombay system?

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"Let us for a moment examine the bearing of this important change upon the broad principles of Local Self-Government. What is Local Self-Government but the administration of local affairs by the representatives of the local public? But what becomes of Local Self-Government when the representatives of the people are reduced to a hopeless minority—to a condition of pitiable impotence—in the body that controls the municipal affairs of the town? And what is the justification for these far-reaching changes? No charge of inefficiency has been brought against the Corporation of Calcutta. On the contrary, eminent Lieutenant-Governors have testified to the ability and zeal of the Commissioners and to the continued success of municipal administration in Calcutta. Sir Henry Fowler, speaking from his place in the House of Commons, observed in February last that he discovered no evidence of the break-down of the system. I am bound to say that the Bill as now revised by the Select Committee is distinctly worse and more retrograde than the Bill submitted in April last. That Bill vested the power of the purse in the representatives of the people. The deliberation of large questions also belonged to them. All this power and authority will now be gone. They will not control finance or regulate expenditure. The rates and taxes will not be fixed by them. Their voice will be impotent for good or evil. The Hindu and Muhammadan rate-payers pay the bulk of the taxes, but their representatives will have no hand in determining how they are to be spent. The result will be disastrous to the ends of economical administration. It is a universal truth, confirmed by the experience of mankind, that the strongest security of the public purse is its control vested in the representatives of the rate-payers. When you have to spend other people's money you are apt to be extravagant. When you spend your own money you have the strongest motives to be economical, and the successful administration of the finances of the Calcutta Corporation is a conspicuous example of the truth of this remark. When it is borne in mind that finance is the backbone of every form of administration, municipal or otherwise, I have no hesitation in saying that it is a perilous experiment to deprive the representatives of the rate-payers of that financial control which they have hitherto exercised, with so much credit to themselves and benefit to the public.

"I have just a word or two to say with regard to the constitution of the General Committee as it will be affected by the orders of the Government of

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India. The constitution of the General Committee has been the subject of considerable criticism both here and in England. I cannot say that the alterations proposed by the Government of India in the smallest degree help the rate-payers or improve their position. In the Bill, as originally revised by the Select Committee, the representatives of the rate-payers on the General Committee were four in number out of a total of twelve. In the Bill, as further revised by the Select Committee, the number is still four. Of the twelve members of the General Committee, eight indeed will be elected by the Corporation, four being appointed by the Government. But these eight members are to be elected in accordance with the constituent elements of the electoral body, consisting of elected and nominated Commissioners in equal proportions, and this has been interpreted to mean that of the eight Commissioners to be elected by the Corporation, four are to be elected and four are to be nominated Commissioners. Thus, Sir, as in the Corporation, so also in the General Committee, the representatives of the rate-payers will be in a hopeless minority.

"These are the observations which I desire to make on the letter of the Government of India. I would now call attention to the terms of my amendment. I am sure the Council will consider my amendment to be reasonable, having regard to the important nature of the changes proposed. Probably my hon'ble friend in charge of the Bill will say that there are only two or three questions which have to be considered, viz., the constitution of the Corporation, the constitution of the General Committee and of the Special Committee. These in themselves would be questions of sufficient importance to need careful consideration. But that is not all. I would refer the Hon'ble Member in charge of the Bill to paragraphs 7 and 8 of the letter of the Government, from which it will appear that the Government is of opinon that Sir Alexander Mackenzie's Bill is not in accordance with the broad principles of Local Self-Government, and the whole Bill will have to be considered in the light of those principles. The Government of India say:—

'In the course of the passage of the Bill through its various stages, much criticism has been bestowed upon it from many quarters; and, while a good deal of this criticism has been of only ephemeral value and has rested upon no solid foundation, the Government of India have been led, after a careful and independent investigation, to think that there are features in Sir Alexander Mackenzie's Bill which are not in entire accordance with the principles just laid down and which might not in practice ensure that amicable and patriotic

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co-operation of all parties in the future municipal government of the city which is essential to its efficient administration.'

"I would in this connection call attention to paragraph 20 of the letter of the Government of India regarding the constitution of Committees and Sub-Committees. This is a matter of considerable difficulty and requires much careful thought. This is what the Government say:—

'I am also to suggest that it might be desirable to lay down rules for the appointment of the Special Committees and Sub-Committees which would secure their being truly representative, in respect of their constituent elements, of the Corporation or General Committee appointing them. The provisions regarding the making of rules and bye-laws for the conduct of the business of Special Committees and Sub-Committees under sections 89A and 590, in connection with sections 595 and 597, might be extended to include their constitution in general agreement with the principles already laid down. It might not be necessary or feasible for all such Special Committees and Sub-Committees to be homogenous in constitution with the body appointing them; but it is clear that in some cases at least such homogeneity alone would secure efficiency and obviate friction.'

"I therefore hope that Your Honour's Government will see its way to accept my motion. A few weeks' delay in the passing of this Bill will not be time wasted, if it gives the public an opportunity for considering a measure of this magnitude and importance.

"I do not know that I should be justified in further detaining the Council. His Excellency the Viceroy has expressed the hope that there may now be a truce to all dissension, and he has appealed to our patriotism to vindicate the cause of Local Self-Government in the capital of the Indian Empire. An appeal addressed to our patriotism, coming from so exalted an authority and from a Viceroy whose utterances have been so sympathetic, is bound to make a deep impression upon our minds. But a higher patriotism—the love that we owe to our country, the duty that binds us to the Government—demands that we should raise our voices in terms of earnest protest and remonstrance against proposals which are inconsistent with the wisdom and the policy of the Government and will wreck the best prospects of Local Self-Government in the capital of the Indian Empire. How can we vindicate Local Self-Government, when Local Self-Government will be at an end! How can there be any amicable co-operation on our part when a cherished institution is laid low to the ground! We have learnt to value Local Self-Government. We love

it; we cherish it; the fond devotion of a people clings to it. It has stimulated our public spirit. It has inspired us with a sense of responsibility and that moderation which never fails to follow in the train of responsibility. It is a noble seminary of popular and political education. We have derived from it inestimable benefits, and we desire to transmit it, unsullied and unimpaired to our children and our children's children. With such an aspiration the Government of this country must sympathize. Far be it from us to wish to exclude our European fellow-citizens from their legitimate share in the administration of our municipal affairs. Their interests and our interests are in many respects common. But they cannot wish us to be Uitlanders in the city of our birth. We shall indeed be worse than Uitlanders; for the Uitlanders never had the franchise—we are to be deprived of the franchise that we possessed. It has always been the crowning glory of the British Government never to withdraw a privilege which it has once conferred. There have no doubt been temporary aberrations, like the eccentricities of the planets; but the Government has soon resumed its steady career of beneficence and progress. I trust, Sir, it will be our high privilege to be able to associate Your Honour's administration and that of His Excellency the Viceroy, if not with the expansion, at any rate with the preservation of an institution whic while it has contributed to the sanitary improvement of Calcutta, has stimulat the public life of the people and has helped the cause of popular and politic education which it is one of the avowed objects of the Government of Ind to foster and to promote."

The Hon'ble MR. MACKENZIE said:—"May it please Your Honour,—I rise, Sir, to oppose the amendment proposed by the Hon'ble Babu Surendranath Banerjee on the ground that postponement will make it impossible to pass the Bill this session, and I consider it detrimental to the best interests of Calcutta that legislation should be longer delayed. In the Note of Dissent, signed by two Hon'ble Members of the Select Committee, and largely referred to by the Government of India in their recommendations to the Government of Beng complaint is made that 'The Bill, as amended, makes little or no change in the constitutional part of the Bill as originally introduced, *and that* only as regards two matters has any concession been made in this part of the Bill, and the last of these concessions is nullified by the powers reserved to the Government.'

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From that view, Sir, I differ entirely. I find that very considerable changes have been made by the Select Committee, and, but for the 'powers reserved to the Government,' I have no hesitation in saying that I for one would not be in the position I am in of being able to give my vote in support of the measure. Government control, however, is an engine only to be brought into play on great occasions, and cannot be called upon for every-day purposes. In my opinion, Sir, the only practical way to increase the 'motive power' in the proceedings of the Corporation would be to largely increase the powers of the Chairman, empowering him to do, and holding him responsible for doing, the ordinary work of the town; the General Committee acting as an advisory or consultative Board, the main body of the Commissioners being restricted to a quasi-legal function. To restore to the Corporation the power of electing the high officers of the city merely opens a door for canvassing and jobbery, which has not been wanting in the past.

"To this e[illegible]ir, I have to deprecate the action of the Select Committee in their [illegible]gs with the Bill. As to the necessity for the introduction of ra[illegible]nanges, there can be no reasonable doubt; but if doubt did exist, perusa[illegible] the letter from the Government of Bengal to the Government of India, dated 7th March, 1898, would dispel it. Much capital has been made in various quarters, in which the Bill is opposed, of 'the blow [illegible] the root of Local Self-Government.' Perusal of the 'precis of opinions' (Papers 2 to 35) will show that this is the universal 'war cry' of the opponents of the Bill at their public meetings in the Town Hall, and in each of the several 'Wards'; and more astonishing still it presents itself as the 'bogey' of the Government of India in its recent correspondence with the Local Government regarding the Bill. Speaking of these public meetings, I may say that there is nothing to show that the same set of people were not present at each and all of these meetings, whipped up to constitute themselves, for the time being, political agitators to swell the importance of the opposition. In fact, Sir, in Paper No. 7, we find one of the Wards (No. 8) appointing by 'Resolution' delegates to the number of 79 to attend the public meeting held at the Town Hall on the 31st August, 1898. But, Sir, be that as it may, this Bill, as its title indicates and as its provisions show, is distinctly a Calcutta Municipal Bill, and for my part, I have never seen or heard anything quoted to controvert the arguments adduced by Mr. Risley in his

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speech in this Council Chamber on the 4th April, 1898—that the argument as to its being the death-blow to Local Self-Government in Calcutta is absurd for the reason that one of the chief limitations of the Government of India's Resolutions on the subject of Local Self-Government is 'that it does not apply to Presidency towns.' Now, Sir, when I first read the Government of India's letter No. 93, dated Simla, 17th June, 1899, addressed to the Bengal Government and read in page 7 of that letter, the reference to 'the broad principles of Local Self-Government already conceded'; and again in paragraph 21 of the said letter where it refers to the necessity to 'vindicate the wisdom of the decision that 23 years ago first accorded the privileges of Local Self-Government to the Capital of the Indian Empire,' it occurred to me that either the Government of India or this Council had been seriously misled, and I set myself to enquire into the matter, with the result that I find the Government of Bengal never so much as asked for or recommended Local Self-Government for the Capital of the Indian Empire; and that its application to that Capital was expressly excluded by the Government of India's own Resolution No. 17, dated the 18th May, 1882, paragraph 4, from which I quote as follows:—

'Meantime, however, it will be convenient that the Governor General in Council should explain somewhat more fully than he has hitherto done, the general mode in which he would wish to see effect given to the principles of Local Self-Government throughout British India outside the Presidency towns.'

"But, Sir, of course the reference to the concession having been made 23 years ago, shows that while the Resolution of the Government of India, dated the 18th May, 1882, expressly excludes Presidency towns, we have the somewhat phenomenal position presented to us of what is expressly forbidden in the present having been conceded in the past. To examine the position 23 years ago, one has to go back to the Proceedings in this Council extending from December, 1874, to April, 1876, and from a careful perusal of the record of the debates on the measure at that time before the Council, I have come to the conclusion that, as regards Local Self-Government said then to have been conceded, the most ever asked for by the late Hon'ble Babu Kristo Das Pal, I quote his own words, on the 3rd April, 1875, was—

'If it was advisable to give the citizens of Calcutta the right of Self-Government, they ought to have it fully and unreservedly. But then the question would arise, suppose the

elective system be conceded, should the Chairman be elected by the representatives of the town, or should his appointment rest with the Government? Now there could be no thorough elective system unless the Chairman's appointment were also made elective, &c., &c.'

"Then on the 26th February, 1876, the late Hon'ble Babu Kristo Das Pal spoke as follows:—

'The rate-payers of Calcutta could not but be grateful to His Honour the President for the liberal announcement he had made in announcing that he was willing to give them the privileges of Self-Government; but they wanted a reality, and the question was whether the Bill, as framed by the majority of the Select Committee, gave a reality. With one voice the rate-payers had declared that it was not a reality; that it could not be a reality so long as the main-spring would be in the hands of Government, and that it could not therefore be looked upon as a boon or a blessing.'

"This, Sir, by one of the first, if not the first, native gentleman to agitate for Local Self-Gevernment, and he recognises (1) the impossibility of conceding the principle; and (2) the fact that it had not been conceded. His Honour the President's answer to the latter quotation was as follows:—

'It is perfectly true, as has been stated by three Hon'ble Members, that I never promised to give the Calcutta community an elective system without Government control, and on 27th November last, I promised an elective system on condition of a certain limited Government control.'

"The most, Sir, that the then Lieutenant-Governor ever suggested conceding, was a restricted principle of election, but no Bill since framed has suggested depriving them of that. Therefore, I submit, Sir, to say that, twenty-three years ago the privileges of Local Self-Government were first accorded to the Capital of the Indian Empire is an error which it is impossible to conceive the Government of India have fallen into. Then, Sir, as to the meetings held in each of the 'Wards.' What are these Wards, and what their importance as representing public opinion? Are they important political divisions, such for example as Westminster; or are they, as I suppose, simply thanas or divisions for police administration purposes and such like? It is a fallacy to suppose that the body of rate-payers take any real interest in the present system, or that the present Commissioners truly represent them. This point was brought out by Mr. Risley in his able speech in this Council Chamber on the 19th March, 1898, when he showed that on the statistics of the ward elections of 1895 the registered electors amount to only two per cent. of the total population of Calcutta, and the figures of the

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1898 election show an exactly similar result. Does such a result show that the privilege is as much cherished as the agitators would have it believed to be? The so-called 'boon' in reality has been mainly prized by those who sit as Commissioners and by their followers—not by the mass of the people who know or care little or nothing about it. I find the following to be an analysis of opinions 'For' and 'Against' the Bill:—

'*For* (1) Central National Muhammadan Association; (2) Bengal Chamber of Commerce and its allied associations; (3) European and Anglo-Indian Defence Association; (4) Calcutta Trades Association; (5) Imperial Anglo-Indian Association.

'*Against* (1) Bengal National Chamber of Commerce; (2) Indian Association; (3) nine so-called "public meetings," held between 31st August, 1898, and 15th March, 1899; (4) four "ward" meetings held between same dates.'

"What Calcutta requires, Sir, is representation of *interests*, not races. Commerce made Calcutta. By commerce, I mean European commerce, and by that Calcutta has existed, and will continue to exist. The history of Calcutta shows it to have been little more than a mud bank until European merchants settled there. The present Bengali population who clamour for the Government of Calcutta are not for the most part natives of the place, but have been attracted to it. As long, therefore, as Calcutta holds a prominent position in relation to the commerce of the world, so long hav the representatives of Commerce a right to demand that they shall hav a preponderating voice in the Municipal Government. This principle met by the present proposal of the Government of India, and in this vie it has the support of the important interests which I have the honour to r present on this Council.

"The interests of Government and of Foreign Commerce are more important than all other interests put together, and ought consequently to be at least equally represented. It has been a matter of common complaint that Europeans have not hitherto attended and shared in the municipal administration of the city. The reply to this has been—and I would now beg to reiterate it—that while European merchants can and will find time to attend business functions, they will not give their time to functions where talk is the order of the day, and in which in the matter of arriving at any practical conclusion, they are in a hopeless minority. Under the provisions of the new Bill, I honestly believe they will attend and do good work. As an indication of this, I may be

sioners from an effective and direct voice in the administration of the Municipality.

"My hon'ble friend, Babu Surendranath Banerjee, has relieved me of the task of quoting the speech of Mr. Colman Macaulay who was Chief Secretary to the Local Government and a Member of the Council when the Act of 1888 was passed. It will be seen how he regarded the reduction of the numbers to 60 as being a contraction of the principles both of election and of representation. Here it is proposed to contract the principle of election only, and to a greater degree than was proposed in the amendment which he opposed. It will also be observed how emphatically he spoke of the success of the elective system.

"The Select Committee who reported on the Act of 1888 advised on the question of the nominated Commissioners, that out of the 25 nominated Commissioners the Chamber of Commerce and other bodies should be given the right to nominate 10 members. The Lieutenant-Governor of the day, Sir Steuart Bayley, one of the most experienced of Your Honour's predecessors, with great knowledge of the Province and of the European non-official world of Calcutta, in replying to an amendment of the Muhammadan Member of the Council that the Government should retain the nomination of the whole 25 members in their own hands, said :—

'To come back to this particular point my own position is this. The proposal of the Select Committee will have the effect of whittling away to a certain extent the power of the Local Government in regard to making nominations, and for that reason I shall vote for it. I think that as time goes on, it will probably be found more and more possible to keep down the proportion of nominations left in the hands of the Government; but at the same time I am not insensible of the objections which have been brought forward to the proposals of the Select Committee as to their particular distribution. There is something in what was said that there is no guarantee that these bodies, whatever they may represent to-day, will represent the same interests hereafter. And if you once stereotype the particular distribution, you will have to go through a long and disagreeable process to alter it. At the same time the Select Committee have given the subject serious thought; and I am not sure that any better proposal can be made. It would be unseemly for me at least to vote for bringing the whole of the nominations back to the hands of the Government, but I have not the slightest wish to influence any Hon'ble Member from voting as he wishes.'

"It will be observed that Sir Steuart Bayley was not so much impressed with the idea of the overwhelming necessity for special representation of commercial interests as something apart from the ordinary and general interest of rate-

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payers, and I shall show that he had a better appreciation of the situation than has later prevailed. His speech is also notable for the tone of appreciation towards the Corporation, and the progressive development that he foreshadowed in holding out the prospect of the Government withdrawing more and more from reserving the powers of nomination.

"I would point out also the result of the adoption of the proposal to cut down election—that is to say, to have only one elected Commissioner for each ward—will be that the number of places available for nomination for other communities will be diminished, because to redress the inequality that will be caused by the exclusion of Muhammadans by election, a larger number of them will have to be nominated. If they are to have a sufficient proportion of members on the Corporation, if even the whole number be not allotted to Muhammadans, the opportunity of nominating other interests will be most seriously curtailed; for instance, amongst others, the class of Hindus whom Mr. Risley so much favours—I mean those who will not submit themselves for election; those who would more directly represent Government interest, such as the Commissioner of Police and others; those who could be regarded as sanitary authorities, such as Dr. Sanders, Dr. Charles, Dr. Banks and others; the member for the carters, cow-keepers, washermen and busteewallas, whom Sir Alexander Mackenzie so much fancied as a very useful addition to the Corporation; and that very important class, the European rate-payers—will all run the risk of being left insufficiently represented. Practically it will come to this—and it is important, since the Government themselves lay such emphasis on the difference between the representation of the trade interest and that of the rate-payers—European interest will be confined to the representatives of the Chamber of Commerce, and I have known this body on one occasion to return one European, who was a journalist, and three Hindus, the Trades Association, the presence of whose members I always welcome, and the Port Commissioners. The interests of the trading communities are identical with, and are inseparably involved in those of the European rate-payers. But it can be easily seen, as I shall explain later, that the interests of the mercantile firms are not necessarily identical with those of the rate-payers. From my own observation I feel bound to say that I cannot regard representation by nomination for Muhammadans as satisfactory as representation by election, where it can be obtained. It will be enough if I say that my reason is that there can

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be no doubt that those who are elected are in closer touch with their constituencies, and represent them far better than those who may be nominated. I am sure that my hon'ble colleagues who are Muhammadans will agree with me that the selection by themselves of the men whom they wish to represent them, and the responsibility imposed on the elected Commissioners towards those to whom their election has been due, creates an effect, both on those who vote and on the candidates, that is nothing but for good.

"The point that I make in these comments is this: The Government of India have said in their letter that the first ground for the new Bill is the failure to secure, under the present conditions, adequate representation by the elective system, and this, as is apparent, with special reference to the Muhamadans, for they have added 'even in the native city.' The result of the new proposal—an unexpected result I feel sure—will be to annihilate the chances of Muhammadans for election. We are as much liable to do harm by want of thought as by want of heart. On the other hand, we find that the Government of India have condemned in a manner so clear that we cannot lose the impression of it, that the proportion of 12 on the General Committee is illogical with reference to 75 on the general body. If it is not intended to destroy the elective system, and I take it that it is not, the numbers of the elected Commissioners should not be reduced as is proposed. And to be logical and consistent, the numbers on the General Committee must be increased. The Europeans now number 8 elected Commissioners. This number, I think, under the new proposals, will be reduced to 3. They may, however, hold 4 seats. Although the Europeans now number only 8 among the ward or elected Commissioners, my view is that with any organization their number could be raised to 12 or 14. I will speak from my own experience. In the year 1885 the Health Society was started for the sanitary reform of Calcutta. It was started by Europeans, under the auspices of Sir Henry Cunningham, but it comprised some native gentlemen also. One of their plans was to secure the return of Europeans as elected Commissioners. Amongst others, all of whom were successful in their elections, I was solicited to stand for election, and it was in this way that I came to join the Municipality. Before then, I had neither any idea nor inclination of doing so. The Health Society is dead, and I fear all such organizations will meet with the same fate in busy Calcutta.

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"If it is not to crush the elective system, and I do not for a moment believe it is, what is the purpose to be served by reducing the number? I can think of only two that may be intended. I take the first to be to prevent waste of time by speeches. This has been dealt with by my hon'ble friend (Babu Surendranath Banerjee), and he again has relieved me greatly, and I need only very briefly refer to that point. It would be as absurd to suppose all the 75 members of the Corporation speak at the meetings held throughout the year as that the 600 and odd members of the House of Commons all speak in a single debate. On an average about 5 speak in one debate. The discussion is confined from years end to years end to only a few of the Commissioners: I think to not more than 14 or 16 in number. Any one outside this group very rarely speaks. I think one could very nearly guess before going to a meeting, the names of those who will speak. The Europeans take a fair share in the discussion. I should guess generally that my hon'ble friend here, Mr. Oldham, would be one of the speakers. He speaks to express his opinion. He would not speak, I am sure, if he thought he was only wasting time by so doing. And if he speaks, I am sure he is fair-minded enough to concede to others the right to express their opinions. It is not the number of persons in an assembly that occupies time. It depends on the individuals who may speak, and I again only am supporting Sir Henry Harrison's view when I say that a reduction even to 40 Commissioners would not make any appreciable difference in the time occupied at the meetings.

"The only other purpose I can think of that the reduction in the number of the Corporation is intended to serve, is to undermine the Hindu predominance in the Corporation. That the Hindus are in a majority numerically, of course, cannot be denied. I am, however, going to advance a contention that will astonish the Council, since it is diametrically opposed to all that has been so confidently relied upon on the point. I say there is no Hindu predominance in the sense that the term is always used. I say that the other communities are not kept in a hopeless minority at the meetings, because the Hindus do not, as a matter of fact, use their numbers to outvote them. If the Council will test the question of predominance with me I hope it will be made clear. The whole of the business of the administration is, in the first instance, dealt with in Committee and chiefly in the General Committee. We have it from Sir Henry Harrison that in his time only 5 per cent. of the items were challenged.

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"I think that it will be an advantage to give Sir Henry Harrison's description of the system of work in his own words. This is what he said in this Council, when the Act of 1888 was passed :—

'He believed the system of work which had gradually developed itself in the Municipality was eminently advantageous and reasonable. Of course the greatest part of the work must be done by the Executive officers, but that portion which the members of the Corporation were able to look into was chiefly done by Committees. Committees had no final power of their own, and were entirely subordinate to the Commissioners-in-meeting. The result was that the whole work of the Corporation was done by these Committees; but any single member of the Corporation, and the Chairman especially, who often availed himself of the power, could virtually appeal from the decision of a Committee, if he chose, to the great body of the Commissioners. Therefore, the Corporation, as a whole, had practically fallen into the position of a Court of Appeal on every great question of interest. In 19 out of 20 cases the decisions of Committees on minor questions were passed without discussion on the assumption that the work was done well; it was only the twentieth case that was fought out over again.'

"My experience tells me that we have decidedly a smaller percentage now. In the General Committee, which is by far the most important Committee of all, the Hindus are in an overwhelming majority. The Hon'ble Mr. Oldham, the representative of the Chamber, and of the Trades Association—one from each,—my hon'ble friend Prince Bakhtyar Shah, with myself, are the only non-Hindus out of the 18 members. In actual attendance the Hindus have a still greater advantage. If the Hindus voted all on one side, there would be no waste of time, at least on their part—they would come prepared to support each other and would vote together, and there would be the most happy despatch of all the items of business. But we know that this is not what happens. There are the warmest discussions, and many items are hotly contested, with the Hindus on either side. My hon'ble friend Mr. Oldham, who is one of the most hard-working and regular attendants of the meetings, has again and again carried his motions with the support of Hindus. Take an instance that occurred only the other day. My hon'ble friend to my right (Babu Surendranath Banerjee), raised a question of Hindu feeling to give strength to his opposition to a resolution moved by myself. But I carried my motion with the support of Hindu votes. Again, in nothing more, to judge from Mr. Risely's strong strictures, would Hindu class feeling be more observable than in the appointment of the higher officers of the Corporation, all of them most desirable appointments. Nevertheless, since the establishment of the Corporation, no Hindu has yet been

appointed to be the Municipal Engineer—a Hindu has never yet been appointed, in this country of officiating appointments, even to act for the Engineer—or to be the Secretary, or the Health Officer. And it is not as if the matter had not been tested. There have been strong efforts made to secure the election of Hindus for each of the appointments I have referred to, but in not a single instance has it been successful. I have long thought, and I am glad of the present opportunity of publicly declaring after a long experience of the Municipality, that the idea about Hindu predominance is a myth. I was speaking on this very subject to an hon'ble friend, and his observation is so apt that I will, with his permission, use his expression. He replied to my question, with quick Irish wit, that he had observed a predominance of Hindu intelligence, but he had not observed their predominance in any other way. I adopt this observation. Perhaps the predominance of the nature my hon'ble friend mentioned explains the situation.

"I think that the control of the Municipal Administration by the general body of members serves a very useful purpose. It keeps the whole body of them in touch with the work that is being done, and gives many most valuable assistants by reason of the active help, as I in practice have personally found, that the system enables every Commissioner, so minded, to give to the more influential in the Corporation. And what is a very important consideration to those familiar with the working of the administration, it gives recruits to fill the places of any that fall out of the ranks of the General Committee and ready to take up their work.

"I unhesitatingly say—to use one of Sir Alexander Mackenzie's expressions—it is abject nonsense to assert that the system is abused. Mr. Risley would have you to believe that 'the young Bengal, or new India, or whatever you may call them,' as he phrases it, holds sway and that the older and wiser heads are ruled by them. It is not so. The contrary is the fact. It is the very Commissioners who have received unstinted praise from Sir Alexander Mackenzie, from Mr. Risley, and from our present Rulers, who by their experience and standing are the real leaders in the Corporation, and have held their positions for ten and twenty years to my own personal knowledge. The younger men, to my regret sometimes, and to their chagrin, are thrust aside and are barely listened to, unless they have something of real importance to say. Let me again draw attention to Sir Henry Harrison's

very striking picture of the leaders of the Corporation. If it was true in 1889, that which he found most conspicuous ten years ago has matured and has proportionately become more valuable now. He said:—

'There were some persons excellently intentioned who have fretted and fumed because the wheels of the chariot of progress have at times tarried, but was not any progress at all in such a trial an almost unparalleled success? Was it not still more gratifying to reflect that this experimental system had in sober truth developed in many of the most experienced Commissioners that moderation in judgment, that sense of responsibility in action and discussion, that toleration of opposition, that practical sagacity which is at once the test of the experienced administrator and the best guarantee for the confidence bestowed in him? Was it not a legitimate triumph that, now that the necessity of making more sustained efforts for the improvement of the Suburbs of Calcutta was at last fully realised, no better course suggested itself than to make them over to the same body who had reclaimed the town of Calcutta?'

"I will not speak a word of comment to mar the eloquence and the impressive picture of the words that I have quoted. But I will warn the Government that the inevitable consequence of the course which they are pursuing will be to throw away the result of what has been proved to be a wise and statesman-like policy, for those whom they most value in the administration will assuredly not remain. It is not unfitting that I should apply to the policy now being adopted, in contrast to the moving eloquence of Sir Henry Harrison, my warning in the words of the very homely adage. 'It is well to make sure before emptying the bath, that the child is not being thrown out with the suds.'

"I fear that you, Sir, may think me exceedingly unfriendly, owing to the lurid pictures that have been painted of the meetings of the Commissioners, if I were to express a very strong regret, since one learns so much more by seeing than by hearing, that you have never taken part in any of the proceedings of the Municipality. And yet, in legislating on this most important Bill, I venture to say that I have the advantage over you, Sir, in being on my part intimately and practically acquainted with my subject. If you, Sir, have not been a Member of the Corporation, you have trusty Councillors in this Chamber, in the person of my hon'ble friends Mr. Baker and Mr. Oldham, who have had sufficient experience to enable me to refer to them. I can give scores of instances of the practical use of the system that requires confirmation of the proceedings in Committees by the General Meeting. I shall

refer, however, to only two, and I choose them because of the presence here of my hon'ble friends, the Member in charge of the Bill, and Mr. Oldham. The Hon'ble Mr. Baker will remember the tramway question, how at the instance of the Chairman of the time, an exceedingly improvident arrangement had been sanctioned by the General Committee, and how my hon'ble friend was one of the strongest supporters of the Commissioner who moved that the resolution of the General Committee should not be confirmed. The Chairman had not a word to say in support of his own motion when the position was explained, and the amendment was carried with his acquiescence. There can be no gainsaying the fact that, by the action of the General Meeting, the Corporation and the rate-payers escaped a most improvident arrangement, which included in its terms the taking over by the Corporation after 21 years user, the property of the Tramway Company at the rate of 140 per cent. of the capital stated to be invested, irrespective of depreciation of the property and without any enquiry as to what sum in truth constituted the invested capital. And further, Sir, as was later confirmed by the highest legal opinion, the proposals could not have been supported in law. And all the while the Chamber of Commerce and the Trades Association were intervening to support the proposals on behalf of a new Company that was going to work the Tramway Company's business. Turning to the Hon'ble Mr. Oldham, I would ask him, on his part, to recall how a resolution which had been carried on his own motion in General Committee relating to Contract No. II of the Suburban Drainage Scheme. There were questions involved which the Acting Engineer, in the absence, on leave, of the Engineer, had referred to in a Note as being of the highest importance, on which the directions of the General Committee should be obtained. These questions had arisen owing to the unbusinesslike proceedings of the Engineer's Department. When the matter came up before the General Committee, the Acting Engineer had given up charge and was not in office, and it is not surprising to me that the Note should not have been placed before the General Committee. In General Meeting, the same Commissioner who had obtained a reference back on the tramway question, pointed out that material considerations had not been before the General Committee. The Chairman who had been absent on leave when the question was before the General Committee, at once agreed with him and said that the matter must go back. My hon'ble friend need not have said anything, because there was no opposition to the motion for a reference back, but he

felt it to be incumbent upon himself to explain that he had moved his resolution in Committee under a complete misapprehension. I hear on all sides that 'You must admit'—that 'You cannot deny'—and other such expressions that there is great waste of time in these meetings, because of the constant references back of questions to Committees. I deny that there are constant references back: and I ask that when 96 and 97 per cent. of the work of Committee is passed without even discussion, is it right to condemn, without knowledge, from preconceived notions, and without stopping to enquire whether there is not reason for references back in say 1 or 2 per cent. of the matters that come before the General Meetings?

"We hear much in condemnation of the proceedings of the Commissioners by persons who have never attended a meeting of the Corporation and possibly know nothing of the business of public bodies in this or in any other country. Let me invoke the testimony of a most highly competent critic, well versed in public affairs, whose experiences place him immeasurably above those who have been so ready to belittle the Corporation. At one of our meetings in 1888, I remember we were honoured with a visit from no less a personage than the Viceroy. You, Sir, will see that, after all, I was not so very unfriendly in having wished that you had taken a personal part in the proceedings of the Municipality. Lord Dufferin had been some time in India, and knew many of those who took part in the proceedings on that day. There was a discussion on the budget—a more dry subject it would be hard to find to sit down and listen to. I remember that before His Excellency left the meeting he wrote a note—I saw the writing and I am very sorry that it has not been preserved in the archives of the Corporation—to be read to the Corporation. I am glad to say that his words have been preserved to us, for the Chairman, before the close of that day's meeting, read the note out to the meeting and it forms a part of the records of our Corporation. I will read from the proceedings of the day—28th of March, 1888:—

'The Chairman said that, before passing on to the fixing of the rates and taxes for the ensuing year, which was the next item of business, he wished to inform the Commissioners that His Excellency the Viceroy had noted the great pleasure he had derived from having had an opportunity to be present at their proceedings. To see so many persons of position and intelligence, representing as they do both the European and the Native element, devoting their time and talents to the improvement of the town of Calcutta, was very satisfactory.'

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"Lord Dufferin gives a refutation to those detractors of the Municipality who speak of its members as being men of no position, who represent none but themselves, mere lawyers and corrupt politicians, and I would draw attention to the ring of the words that follow, because they seem to convey the strong impression that had been created in Lord Dufferin's mind:—

'He must also add that he had been much struck by the orderly, practical, and dignified manner in which the business of the meeting had been conducted; his best sympathies and good wishes would always accompany the labours of the Municipal Council and the welfare of those whose affairs they administered.'

"The object of the changes in the law are, it is said, to induce the European Mercantile community to join the Corporation. I have the fullest sympathy with the desire to obtain them as working members. They have the opportunity now, but they do not use it. If they speak of waste of time in the General Meetings, let them learn that the work of the administration is done in Committees, where speeches are not made, and where they can hold their own, if they only will give the time that is required, and always will be required, whether the present constitution is destroyed or not. My hon'ble friends Mr. Baker and Mr. Oldham have been able to join the General Committee and attend regularly: the representatives of the mercantile and trading community could do the same, if only they would be willing to give the time that unavoidably must be required for the transaction of business. This again is by no means a new question. Sir Stuart Hogg expressed his opinion during the legislation of 1876 that they could never be got to give their time to the work: that they were birds-of-passage and not permanent residents of the city, and as very busy men, they could not be expected to serve as active members of the Corporation. Sir Henry Harrison, another Chairman, speaking after an experience almost as long as that of Sir Stuart Hogg, bore testimony to the same effect. There is no class of persons whom I would welcome more cordially in the Corporation, and to secure whose services I would be more willing to make sacrifices, if only I could think that they would be found to be useful and active members. But I am convinced that it is hopeless to expect it. It is a most important consideration that the working members should give continuous service for a series of years. We have Hindu Commissioners, whose homes are here, who have continuously for 20 or 25 years been active Commissioners. I know no one amongst the leaders of the

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Corporation who has been for less than 10 years working regularly, and I may say unsparingly. They give the utmost assistance to the Chairman, the incumbent of which office is being constantly changed. With Europeans, the exigencies of their businesses, the climate, absence from their home country, all will operate to cause very short spells of membership. Individuals will think that if they have served one or two years, they have done their turn, and others should undergo the martyrdom that they have had to suffer. The result will be that before they have served their apprenticeship to become serviceable members, they will have left and the same process will be repeated with each successive member. Mr. Risley falls foul of Sir Stuart Hogg for having suggested that the European community are birds-of-passage, and expresses amazement at the idea because, forsooth, Europeans are interested in their firms, and their firms continue to carry on business here. That is to say, a business man working here to-day, will enter the Corporation because, after he has retired, his firm may or may not be carrying on business here, and he may or may not continue to have an interest in it. We must recognise that the work of the Corporation requires leisure, and the high pressure at which businesses must now be conducted, does not admit of leisure being provided for those engaged in them, for service on the Municipality. Again, the whole idea of a continuing interest is purely speculative, and the force of the reason asserted has no force with me. In the first place the business firms, it is not even suggested, have suffered from any maladministration of the Municipality, and, in the second place, they contribute to the administration only an insignificant amount in their expenses, in the shape of a license tax which is fixed and invariable. They have successfully resisted all attempts to levy *octroi* duty. Only the other day, when the Building Commission confirmed all that the Corporation have long been saying without being credited, that the whole of their revenue is required for their ordinary administration, that the opening out of the congested parts of the city is of the first importance for its sanitary improvement, and invited the Chamber of Commerce, amongst other bodies, to suggest sources from which money could be obtained for the purpose. The Chamber of Commerce declined to make a single suggestion, for the obvious reason that whatever they might suggest one or other of the businesses carried on by their members would be touched. The members of the various firms are concerned only for their personal comfort and convenience while they reside here, and, circumstanced as they are, they undeniably are only birds-of-passage.

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"Then Mr. Risley tells us that because they serve on the Port Trust, they will with equal readiness, if only the constitution is changed, serve on the Corporation. I would point out that the two institutions cannot be placed in the same field for the purposes of comparison. The Port Trust deals with the trade of the port. The members of the Board transacting the business of the Trust, are men connected with the trade of the port—imports, exports, shipping, traders, railways, manufacturers, together with whom, the representatives of the Government and the Municipality, give to the Board complete representation of all the interests concerned. The work is congenial to business men, and I suppose not one item out of 100 is not intelligible or interesting, and generally business in which one or the other of the firms to which the representatives belong, are in some way affected. Many of the members serve on the Board as part of the management of their own business concerns. Their interest, while on the Port Trust, centres round their own businesses, in which their capital is invested. The business done in the Port Trust meetings affects the business of the Port with which all are in touch. The operations of the Port Trust influence the cost of the business of the Port, and they are concerned to watch their own interests. If economy is not practised, and close supervision, their own interests would suffer.

"It is true that fees are paid for attendance in the Port Trust. The members are business men, and if money is offered, they pocket it. But fees do not make the difference in their acceptance of office. The profits of their own businesses are involved in the operations of the Port Trust, and whether fees were paid or not, there would be competitors for office from among the same class who now send members. It is now proposed to give fees for attendance at Committee meetings in the Municipality. Payment has never been made before. It was proposed in 1888, and the idea was very decisively rejected. I think that it is a needless expenditure, and ought not to be incurred as a new departure in the administration. If the payment will make a difference in inducing any person to join, I would regard him as not a desirable member in the Corporation, and I fear that the payment of fees will lead to mischievous results.

"There is the greatest difference in the work of the Municipality in contrast with that of the Port Trust. It is not of a congenial kind for the class who join the Port Trust, and not one item of business out of 50 will interest

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them. It deals in a large measure with conditions of life which is strange to them. The Municipality has to do with the every-day lives of the people of this country, but they are not in touch with them, and least of all with the poorer classes for whom the present elected Commissioners, who are natives of the country, have done so much. They cannot show sympathy with classes of whose wants, requirements, and habits, they are wholly ignorant. In the Port Trust they look after not only their own interests, but also of those of the mercantile public in general, with whom they are closely in touch. And most important distinction of all, there will not be the same incentive to economise in the administration. Since they will not feel extravagant expenditure in the Municipality personally or in their business firms, it will be immaterial to them whether the rates are raised to 25 per cent., and we know that the limit of endurance by the poor is 19½ per cent. In the Port Trust they would be careful because the operations of that body affect their own businesses. All this will inevitably lead to the Europeans becoming apathetic, and in order to save themselves trouble, gladly leaving the work, so much of which they do not understand, whether by their own inexperience in the administration, or their want of knowledge of the character of the questions that may be under discussion, to be taken up by those whose interest may be to make themselves busy and useful. I firmly believe that we shall not have the administration worked under the influence of the European element, for whom such great sacrifices are being made, but its threads will fall into the hands of a few, and perhaps of an interested few. The prospect of fees will make the impecunious eager to serve on the Committees, and particularly the General Committee, which will be, as now, the Finance Committee of the Corporation. And the very fact that they are impecunious will be a help to them, because the tender-hearted, for the sake of making a little provision for one or other of their importunate friends, will support their candidature and vote for their election. And it by no means is impossible that influential contractors will make efforts to obtain admission of friends into the General Committee who, if successful in gaining admission, will represent the interest of the contractors in the Committee. My contention is strengthened by the Government of India, because I cannot be taken as vaguely protesting that these things are possible. The Government of India puts forward as one of the grounds for legislation that there is corruption among the Commissioners.

Now when the Government solemnly make a statement of this nature, and base legislation upon it, we must take it that they have good grounds for it."

The Hon'ble THE PRESIDENT said:—"I am sorry to interrupt the Hon'ble Member, but that is a matter which I must exclude from discussion to-day."

The Hon'ble MR. APCAR said:—"I, of course, bow to the ruling, and I would only explain that the letter is mentioned in the motion before us and is under reference to the Select Committee. I merely refer to what I rely upon in my argument."

The Hon'ble THE PRESIDENT said:—"I cannot allow that statement in the letter to be referred to."

The Hon'ble MR. APCAR continued:—"I bow to the ruling. I will keep myself within the ruling, and I will not rely on the suggestion as one contained in the letter. I avow it independently of the letter. We must accept the possibility of such a condition of things. I do not say that it is possible only in Calcutta. The Manchester Police Scandal, and other scandals in various Town Councils and Municipalities in the United Kingdom show that we cannot expect Municipalities to be immaculate. And the smaller the body we have, the more real is the danger that we must provide against. And when we recall the defunct Metropolitan Board of Works of London, we cannot expect that all small bodies will be immaculate. One of the serious defects in a small body is that there may be corrupt persons in it, and if that defect exists now, it will exist later on. We have our defence now against any suspicion of wrong doing. The 75 Commissioners have been referred to as so many masters of the Executive. It shows an utter want of acquaintance with the subject for any suggestion of the kind to be made, for no Commissioner can give any order individually. But they may truthfully be regarded as the eyes and ears of the rate-payers. If there is a rumour of a suspicious transaction which may have escaped the vigilance of the Committee, the Commissioners in the General Meeting come down on it like the leucocytes in the Republic of the Body, and with their silent sensible sanitary vote, and cure it.

"The Bill, Sir, was explained to us, when it was introduced, as being on the model of the Bombay Act. If we are asked to accept the view that we have, in this Bill, the Bombay constitution transplanted to Calcutta, I shall

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not express my opinion with sufficient emphasis if I say of the constitution proposed for Calcutta, *Diablement changé en route!* The Bombay Act gives a virile, workable constitution. This Bill, if it becomes law, will give a maimed thing, that will be found unworkable and pregnant with hardship and mischief. However, Sir, the Government of India have set before themselves the laudable purpose of giving an administration that 'shall secure the adequate representation of the various great interests that have placed and still keep Calcutta in its present position in India and which shall be businesslike, efficient and free from scandal and reproach.' If I may say so, our requirements cannot be better described, and the inhabitants of this city are indebted to the Government for a true appreciation of their responsibility in the matter of our municipal administration. We must be clear in the first place as to the various great interests that should be represented, and in the next, we should recognise that adequate representation is not the presentation of so many places to make up a certain percentage with relation to the whole body of Commissioners. There cannot, I take it, be any difference of opinion that, unless we secure a sufficient number of really representative men, who will fill places in the commercial interests, those places will become so many wasted places, and in consequence the very object for which they have been assigned to them would be defeated. There can be no doubt that it will not answer any good purpose unless those returned are truly representative men, who will enter the Corporation to serve the public, and represent the interests which they have been sent there to represent, and for no other purpose. Commercial interests, which are so intimately bound up with my own that I almost depend upon them, have placed Calcutta in its present forward state, and the undeniable admission before us that Calcutta is not only in the front rank of places in India, but also keeps her place, shows that these interests have hitherto not been prejudiced by any maladministration of the town. Among the many allegations that have been thrown broadcast against the Corporation, I have found no specific one that it is suggested has, in fact, caused injury to the trading interests of this City. I shall meet the allegations against the Commissioners that underlie the words I have quoted from the Government letter, and I am glad of the opportunity of showing that they cannot stand the test of examination, far less can they then be taken to have been hurtful to the trade of the port.

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"The Government of India lay stress on the necessity of the administration being businesslike. The urgent necessity of this quality no one has insisted upon with greater emphasis than I. It has been my constant cry as my hon'ble friends Mr. Baker and Mr. Oldham will remember, that we were not businesslike, but it is through no fault of the Commissioners. I will give an example of what I refer to."

The Hon'ble Mr. BAKER said:—"I rise to order. There is no question at all in relation to the past administration of the present Corporation."

The Hon'ble THE PRESIDENT said:—"The Council came to a conclusion on that point. The question whether the Corporation has or has not done its duty in the past is beyond the pale of the Council."

The Hon'ble Mr. APCAR said:—"I wish to point out that the Government of India have indicated that the administration is unbusinesslike, and I claimed to be entitled to show to what such charges are due."

The Hon'ble THE PRESIDENT:—"Proceed."

The Hon'ble MR. APCAR continued:—"The Tramway Company had for more than five years complained of a nuisance, of the most offensive character, in a drain at their Kidderpore Depôt. No attention was paid to them. The matter became so serious that it attracted the attention of the Government, and in December of 1896, Mr. Risley, the Secretary of the Local Government in the Municipal Department, wrote to the Chairman of the Corporation to draw the attention of the Commissioners to it, and called upon them to abate the nuisance. Even a letter from the Government had not the effect desired. In December, 1897, the District Magistrate, on the report of his Sanitary authority, wrote to threaten proceedings in the Criminal Court. Then the Municipal Executive woke up. The Local Government authority in the person of the Commissioner of the Division, the Engineer, the Health Officer, and the Local Engineer of the Municipality met the Chairman at the spot. The Engineer to the Corporation proposed that the new pumping machinery required for the drainage scheme under construction should be telegraphed for and obtained from England without calling for tenders. The proposal of the subordinate in his department to utilise a portable engine then in the

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Municipal Stores, and make a short length of brick drain at a small cost, was preferred, and the Engineer was directed to submit estimates without delay. The Chairman again and again urgently called for the estimates that were ordered, and up to the time when he went away on leave, in March following, they had not been submitted. The new Chairman, shortly after entering upon office, at the close of a meeting of the General Committee, when only a few members, myself among the number, were left, without due notice, brought up the proposal that had been rejected, without a word of information that the permanent incumbent of his office had already given his decision in the matter, and without an inkling being given of the past history of the question, asked us to give the Engineer a free hand, to enable him to telegraph to England to purchase the pumping engine at the cost of Rs. 60,000. This would have involved a large portion of the drainage under construction being taken over prematurely, which, in the existing circumstances which I do not wish to enter into here, would have been a very undesirable proceeding. The Chairman continued to press for the sanction until formal objection was taken on the ground of want of notice, when he withdrew his proposal, undertaking to bring it up again, with due notice, in the following week. Although he had represented the matter to be of the most urgent character, and although I personally reminded him of it on more than one occasion, the subject was never again brought up. Now, this is a matter about which the aggrieved persons would naturally speak of as being a gross neglect on the part of the Commissioners. When the Secretary to the Local Government wrote officially to draw the attention of the Commissioners to the nuisance, he naturally would be under the impression that the Commissioners had been made acquainted with his letter and had been neglectful. When the District Magistrate threatened prosecution, he would naturally think that it was the Commissioners who had been stirred into action by reason of his threat. The truth is that, from first to last, the Commissioners were kept wholly ignorant of the subject. I was led to enquire into the matter by quite a chance circumstance, and then the whole of the facts were elicited. It seems an incredible story, but I embodied the facts in a Note which was placed formally before the General Committee, when the Commissioners received intimation of the matter for the first time, and not a single statement of fact could be denied. In February last I went down to the spot and found it still a foul nuisance. Nothing had, up to that date, been done, although, more than a year before, the Chairman

had issued specific orders in the matter. Is it surprising that the Complaints Committee was instituted when we have proceedings such as these occurring? Now it is bad enough that the Engineer should have neglected to carry out the Chairman's orders. It is bad enough that immediately the permanent incumbent goes away on leave his *locum tenens* should endeavour to entirely reverse his orders, it is bad enough that a Chairman endeavours to get a sanction for such large expenditure in so irregular a manner, it is bad enough that even the complaint of the Local Government should be unheeded and that the Commissioners should be kept in absolute ignorance of it. But worst of all is what we suffer so much from, that the Engineer should disregard the Chairman and dare to act as he did in this matter, and that he should be allowed to do so with impunity. We are blamed for interfering with the Executive: where is the interference here? We are blamed for hampering the Chairman with Committees and in other ways: in what have we been in fault in this question? You may regard this as a solitary instance, I can give you others. We know how the public attention has been drawn to the Town Hall, and how much blame has been thrown upon the Commissioners. What are the facts?"

The Hon'ble MR. BAKER said:—"The Hon'ble Member is making an attack on the Executive."

The Hon'ble MR. APCAR said:—"It has been ruled that I can do so. I have given one illustration, and I wish to show that it is by no means an isolated instance."

The Hon'ble THE PRESIDENT said:—"We have had one illustration, and I think that is sufficient."

The Hon'ble MR. APCAR said:—"I wish it to be understood that I am prepared to give other instances. If it is accepted that the instance I have given is only one instance out of many, I have no desire to take the trouble of quoting others, or to occupy the time of the Council further. I am content to leave the point on that footing. With the rulings from the Chair in respect of the letter of the Government, I am embarassed as to how I should proceed. I have no wish to contravene any order, and if I may ask it, I would enquire whether I may refer to an expression of Sir Henry Harrison that the Commissioners were lacking in driving or motive power, which has been quoted by the

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Government of India as an opinion which is relied upon by the Local Government to show the necessity of an influx of Europeans."

The Hon'ble THE PRESIDENT said:—"Proceed."

The Hon'ble MR. APCAR continued:—"I am glad of the opportunities of referring to this point now. The quotation is an isolated extract from a speech which, if read in its entirety, would be found not to bear out the view in support of which it is quoted. But it will suffice if I answer by showing that, as a matter of fact, Sir Henry Harrison in the very speech that is quoted from, opposed the proposal of making the proportions of the bodies of Commissioners equal, by reducing the number of elected Commissioners, and increasing that of the nominated Commissioners, and the debate on the two amendments being taken together, he also opposed the proposal to increase the number of elected Commissioners to three-fourths, and decrease that of the nominated to one-fourth. It is obvious, in such circumstances, that a carefully selected sentence might mislead. He supported in the same speech the proportion that then was existing, which was the view of the Government, and was carried, that is, to the proportion of two-thirds elected to one-third nominated which the Government now wish to change. If Sir Henry Harrison desired to have more nominated Commissioners, in other words the opportunity of having more Europeans in the Corporation, he would have supported the amendment for equal proportions which he declined to do. The whole mischief in the present proceedings is that they are being conducted by those who are ignorant of the past history of the questions that are raised. To me, it is very apparent that Sir Henry Harrison had the question of the road now named after him and called Harrison Road, in his mind. He had made the question his own and pressed it with great urgency. His opinion was that, owing to the betterment clauses, the whole cost of the project would be covered. Some of the leading Hindu Commissioners were of opinion that his estimate was an impossible one. The net cost in the result proved to be nearly 28 lakhs. Now, when a project is recommended by its promoter as one the cost of which would be *nil*, and the cost is found to amount to comparatively such an enormous sum, it must be admitted that the opposition was not without reason. An isolated phrase used in 1888 is raked up as a ground for a change to-day. Has there been any enquiry to show whether the idea, even if true in years past, is true now, and even if the

meaning of the words is that which is now attempted to be put upon it? If any enquiry were instituted, it would be found that the Commissioners have by no means been lacking in initiative: it would be shewn whether we have seen any project from the Chairman since Sir Henry Harrison left us, and to take one instance only, how I have had to struggle for 6 years against the stolid opposition of a Chairman against me before sanction was gained for the construction of a road that eased the overcrowded traffic of Russa Road, gave a convenient approach to Kalighât and filled up 18 or 19 highly insanitary tanks, and I would also mention that with reference to roads which the Building Commission recommended to open out the congested quarters of the town, I carried a motion unanimously, asking the Government to commence action by taking steps to consider the alignments of the roads, the cost of them, and how the money for them should be obtained. A letter was written by the Corporation in May last year. Up to to-day not even an acknowledgment of the letter has been received from the Government.

"Sir, in my opinion, the controversy hinges on the question whether the general body shall hold in their hands, for exercise directly or indirectly, the authority to control the general administration of the Municipality, acting openly, and with full responsibility. This is the system of municipal government that prevails in civilized countries, and was extended to Calcutta 36 years ago. Three and twenty years ago the elective system was introduced, after an open enquiry at which Counsel were heard, and in view of the mixed communities in Calcutta, among whom it was thought that the Hindus must be in a permanent majority at the polls, a constitution on the principle of election and of representation by nomination was established in the proportions of two-thirds to one-third, and this constitution was re-enacted on the progressive lines, in the Act of 1888, which it is the object of the present Bill to repeal. The proceedings of 1876 and those of 1888 were severally in charge of Sir Stuart Hogg and Sir Henry Harrison, who had respectively been the Chairmen of the Corporation for nine and eight years. In the interval before 1888 there had been a suggestion to alter the constitution, but the Government set their face against any such idea. Sir Henry Cunningham, who in 1884 led the agitation on sanitary questions that resulted in the Beverly Commission, of which we have heard so much during these proceedings, who had founded the Health Society which I have before mentioned, and had also led the agitation which resulted

in the amalgamation of the suburbs with the town area, ventilated the idea of a Municipal Board of Control on the lines of the Port Trust, but on re-consideration he abandoned it. The reception that he met with at the hands of Sir Rivers Thompson, who was Lieutenant-Governor at the time, was such that he even publicly withdrew the suggestion and apologised for having made it. It will be useful, in these days when the Beverly Commission is so much put in evidence, to see how well the Corporation were supposed to have come out of the enquiry and the confidence placed in them at the time by the very person to whom so much was due for its appointment. I shall quote from a public address delivered by Sir Henry Cunningham on the 5th March, 1885, in Calcutta. The first portion of the extract relates to the speech of Sir Henry Harrison, the Chairman of the Corporation, in submitting the report of the Beverly Commission to the Corporation:—

'Now I am sure that all of us must feel this to be a most satisfactory announcement. Of the 37 reforms suggested by the Commission, 4 can be effected by Government, and we need not fear as to them. Of the 18 specific suggestions, 11 are wholly and 4 partially carried out, and only about 3 is there likely to be a difference of opinion. Of the 15 recommendations of general policy, 10 are already adopted, and as to the 5, the Commissioners have not decided, but have intimated no reluctance to adopt them. As to this small residuum, we shall, I am sure, all of us join in the Chairman's hope that the Commissioners will view the subject as the authors of the report framed it—in a conciliatory spirit.'

"We have had this Commission quoted against us in an authoritative fashion, as if the speaker knew all about the subject, when he apparently could not have known anything of its history, and relied upon as showing results as they in the present day, condemnatory to the Corporation, when the one who actually was the complainant, at whose instance the Beverly Commission was appointed, characterises the statement, not of a Commissioner, but of the official Chairman of the Corporation, to use his own words 'a most satisfactory announcement.' As a matter of fact, as might have been expected, and as it has been with much detail been pointed out, the Corporation have carried out, and in some instances more than fully carried out, the recommendations of that Commission.

"To proceed with reference to the proposal of a Municipal Board of the character of the Port Trust:—

'There has been an idea, due in part, I am afraid, to some words of mine, that there was a wish to ignore the enormous benefits conferred on the city by the great measures

of sanitary reform carried out of late years by the Corporation; and some people have chosen to attribute the whole of the recent movement in favour of sanitary reform to a latent wish to depreciate popular institutions and Local Self-Government in particular. There were some expressions of mine with which His Honour the Lieutenant-Governor, in one of his Resolutions, said that he could not sympathize. Now there I am glad to be at one with His Honour, because I do not sympathize with them either, and I heartily wish they were unsaid if they gave any one pain. I have never heard of any one so ignorant and so foolish as to undervalue what has already been done. As the original prospectus of the Health Society said, it has revolutionized the sanitary condition of many parts of the town. For my own part so strongly do I feel this that I do not at all expect that any further improvement in the city can be on so great a scale or have such wide-reaching effects as the improvements of the past. They have reduced the mortality of the town by nearly 100 per cent., from 22,000 to 12,000; and the programme of reform which I have described to-night contemplates only a further saving of 7,000 lives from town and suburbs together.'

"After this, the idea of a control by a small body, until it was resuscitated by this Bill, was treated as dead as is the idea of protection in England. It will thus be seen that, not only Sir Richard Temple and Sir Steuart Bayley, who were our Lieutenant-Governors when the Acts of 1876 and 1888 were passed, but also, in 1884, Sir Rivers Thompson had the subject of the constitution brought directly under their consideration, and not any of them would consent to change the present constitution, and Sir Rivers Thompson even sharply declined to entertain the idea. The whole way through, as I shall on a future occasion show, every single element in this controversy has a prototype: thus we have had an appalling document that has been spoken to in that famous speech, in the shape of a report by Dr. Payne in 1877, which Sir Ashley Eden put aside in a Resolution of a Statesman, and even that famous Entally speech is not new matter.

"Let me refer again to the Act of 1888. The European community had for some time before been leading an agitation for the amalgamation of the Suburbs with the town of Calcutta for municipal administration, and the Corporation, who were willing to allow their neighbours to participate in the benefits of their water-supply, for the sake of administrative convenience, supported the idea. The Government through their Executive Officer of the district, who was the Chairman of the body constituting the Suburban Municipality, which worked with closed doors, were intimately associated with its administration. And the Act of 1888, which is a progressive development of the previous law, was passed, as I have already said, to amend the Act of 1876,

and also for the purpose of amalgamating the suburban area with the town, that is to say, an area of about 13 square miles, with about a quarter of a million of inhabitants, was added under the Act to the town, comprising about six square miles, with a population of about 400,000. If the Government in truth entertained an unfavourable opinion of the administration of Calcutta; if they thought that the Calcutta Commissioners were not fit to be entrusted with the administration of the town; if they thought they were corrupt; if they thought that Hindu predominance and obstruction did indeed hold sway; if they thought that any other constitution was better calculated to give good results; then why in the name of common sense, and of wise and proper government, did they insist—for there was active opposition in the town for the reason, among others, that the Suburbs were in a backward state, would consume more than its fair share of our funds to be placed in a sanitary condition, and in the Suburbs because it was feared that their rates, amounting then to 7 per cent., would be increased—why I say did they insist upon amalgamation and upon the Calcutta Corporation taking over charge of an enormous inhabited area, with the prospect of 14 more Hindus being added to an already bloated contingent of Hindus, when they could have so easily worked their will upon the Suburbs, and have given them a model Municipality after their own heart, reserving the utmost power in the Executive, and with every appliance for repressing the time-wasting Babu? The fact of the matter was that the Government were anxious to be quit of all responsibility in being connected with the Municipal Administration of the Suburbs, for obloquy and odium are inseparably connected with every Municipal Administration, and they thought that whatever strictures—and I am not one to depreciate the wholesome effect of criticism, whether applied to Bumbledom or to higher authority—that may have been passed upon the Corporation, the Commissioners were showing increasing aptitude for local administration, and had proved themselves capable of undertaking greater responsibilities. If this is not true, then I invite the Government to give some explanation how they could have been so neglectful of the interests committed to them as to recklessly hand them over to the charge of a corrupt, incapable, and obstructive body? And as to the Europeans, if they really considered the Corporation to be incompetent and perverse, I would invite them also to give an explanation how they came to agitate—Mr. Irving, who represented the Trades Association in this Council, was one of

[*Mr. Apcar.*]

the leaders of the agitation—for the amalgamation of an immense area in order that it may be administered by a Corporation to which they so much objected. I must not omit to mention that throughout all the discussions that have taken place, whenever objections have been made, they have been of the same stereotyped character, and there never has been a suggestion thrown out in this Council on behalf of the non-official European community that they desired the proceedings to be conducted in private and not in the full blaze of publicity. The native community have consistently and strongly pressed, to their credit be it said, for publicity as being the best safeguard that is available, not merely against arbitrariness, but also against malversation and jobbery.

"I have been studying the proceedings of the Bengal Council when the Legislature dealt with the law relating to the Corporation on previous occasions, and I have found every one of the various questions that form the proposals in the present Bill, and all the shortcomings of the Commissioners that have been brought up in connection with it, have been raised again and again. They were all discussed when the Act of 1876 was passed, and again when the Act of 1888 was passed. Thus we have had a proposal for an Act on the lines of the Bombay Municipal Acts, for a Municipal Board on the lines of our Port Trust; the objection to the excessive numbers in the Corporation, and of its unwieldiness for practical work; a proposal to reduce the number not to 50—nothing so venturesome was ever attempted—but to 60; for the proportion of elected members to be reduced to one-half of the whole body; the obstructiveness of the Hindu Commissioners; their predominant voting powers; even the payment of fees, have all been discussed. After debates of the fullest and keenest character, after the most serious deliberation, all these contentions were decided—as it was hoped, finally decided. But there is this difference in the present position. Before, on the first occasion, it was the Government who met the objections that I have mentioned, and after the fullest consideration, they granted the present constitution to the Corporation. On the second opportunity, they refuted the self-same arguments, they freely accepted what had before been done as a settled policy, which they were able to support by powerful reasons of their own, drawn from the actual experience of the working of the administration, and they deliberately re-affirmed the constitution, but on progressive lines. In the present day, every

argument that the Government on previous occasions refused to accept, is given as a reason for a change, every principle that was strenuously fought for by the Government themselves, is rejected, and we have to contemplate the Government of the day in Bengal bringing forward a Bill that embodies principles more revolutionary than was ever even suggested by the most uncompromising opponents of the Corporation, since the present constitution was granted to that body.

"I am no enthusiast in favour of the present administration; on the contrary I think it greatly needs reform. But I join issue on the Bill. And I think, too, if the Government had attended to the requests from the Corporation to legislate and give them powers they have not, the Corporation would have escaped some of the blame that has been sought to attach to that body.

"It does not follow that because a certain law has been enacted that it never shall be changed. But it does follow that when a constitution for the government of an important institution has been granted, and maintained through a series of years, as the settled policy of the Government, it should not be changed except for reasons of the most conclusive nature, and the Government for their own good name and for the happiness and contentment of a loyal people should be ready to show that the change is not wrought by the caprice of any ruler. It does follow that after the Government have been so ready to make use of a body of persons for many years, and after they have repeatedly acknowledged that that body have borne the drudgery of the administration and have rendered great benefits by their labour and service to the chief city of their Empire, after they have deliberately shifted the burden of a heavy charge on to their shoulder from their own, and in so doing marked their confidence in them, as was done on the amalgamation of the Suburbs, I say it does follow that those who have done so much, should be treated with full and fair consideration. And I cannot say that this has been done. Those who have felt themselves so painfully aggrieved have again and again appealed in the most earnest—almost pathetic—manner that they may be given a chance of showing that the statements upon which this most important legislation, which so seriously affects their interests, is proceeding, can be displaced; that the statements are one-sided, and they should not be condemned unheard. But the Government of this great dependency of England have continued to treat their own statements in the way Don Quixote treated his helmet, as if they are too tender to be put to the test.

[*Mr. Apcar.*]

The statements have been accepted because of the authoritative manner in which they have been brought forward. It is due to the public that opportunity be given of regarding them from more than one point of view. If there are inaccuracies, they should be corrected so that they should not mislead. And above all, it should not be left open to any one from his place in the Legislature, not lightly, but with a due sense of his responsibility, to say, as I do say face to face with the Government of the day, that those statements embody misconceptions of fact that have distorted and prejudiced the whole question *ab initio.* I hasten to say that I appreciate, Sir, that the Bill, in its policy and in the form in which it was introduced, cannot be attributed to any person who is in charge of the measures or is in any degree responsible for the policy of the Government, nor is there any one in the Government to-day who is answerable for the statements on which the Bill was ostensibly based. Our present rulers have succeeded to a damaging heritage, and the sympathy of all, whether supporters or opponents of the Bill, is due to them in the very difficult position in which they find themselves placed.

"As has been repeatedly stated in Council on behalf of the Government in past years, we have not a *tabula rasa* to work upon, and the safest and best course is to proceed on settled lines, and if I show, as I am confident I shall be able to do, that the statements on which Mr. Risley has relied cannot be acted upon, I am not without hope that in the final result the present support to the principles of the Bill will not be maintained. I am aware that you, Sir, have expressed approval of the Bill. I venture to say, and I cannot be far wrong, that it is because the statements on which it has been based have been relied upon. I acknowledge the advantages—nay even the necessity—of a continuity of policy, but I cannot admit it is imperative at any cost or in all circumstances. Official tradition is a strong factor, but if homage is paid to it in the present matter, or independently of that idea, if the principle of the Bill is in the result accepted, violence will be done to a tradition yet more potent and with more far-reaching an effect. It is a tradition that has grown with the growth, been strengthened with the strength of England, it is the tradition that her own public institutions, and those that have come into being under her fostering care, have been reformed rather than revolutionised, that they have grown rather than remade. And a departure from this tradition would be the more remarkable in this Legislature, where we are ruled by a paternal Government, in whose

hands power continues steadfastly, and where no system of party Government finds place. In considering the recommendations of your immediate predecessor, Sir, we cannot lose sight of the fact that they can only be adopted by rejecting the policy of your predecessors before him.

"I do not belong to the same political complexion or class as those who are the most excited about the measure, and are the chief opponents of it. I have no partisan feeling on the subject, and I do not concern myself with any sentimental views about Local Self-Government in connection with the question. But I speak with an experience far greater and more intimate than that of any person who has been officially connected with the Bill before the Council. I have a personal and permanent interest at stake, and I am anxious for that to be done which will be the best for the welfare and prosperity of this City. I cordially acknowledge that you, Sir, and the Government of India are actuated by the best of motives. I ask that the same consideration be shown to me as that which I readily admit to be your due. If I could think that in the burden of responsibility that now lies upon the Government you would indeed better those who blame you; if I only could think that you, in reality, would be guarding those interests which I am assured, in my own mind, it is your sincere desire to protect, you would have my vote. But I say from my innermost conviction, if the Bill in its present form becomes law, in the result the best safeguards that now exist will be destroyed, and the efficiency of the municipal administration will be impaired in a marked degree. And I shall feel the greater regret, because the passing of the Bill, in all its attendant circumstances, will certainly have a bad political effect."

The Hon'ble Dr. Asutosh Mukhopadhyaya said:—"It is not without some reluctance that I rise to offer a few remarks upon the motion and the amendment now before the Council. When I came here this morning I could not persuade myself to believe that there was really any room for prolonged debate, unless indeed we deliberately chose to wander away from the question before the Council. The situation, if I apprehend it rightly, is this; under the standing legislative orders we were bound to submit for the approval of the Government of India the Bill as reported upon by the Select Committee; that Government, after a careful, and, it is said impartial consideration of the whole question, has come to the conclusion that certain changes of the greatest importance

[*Dr. Asutosh Mukhopadhyaya.*]

are essential, in so far as the constitution of the Municipality is concerned. This decision is embodied in a despatch which it will be idle to deny practically conveys a mandate to us, although it is couched in extremely courteous language. If this is the right view of the position in which we find ourselves, a position which probably none of us anticipated when the Bill was sent up to the Government of India, I confess I find it difficult to discover what practical advantages are to be secured by a criticism of that despatch. If my hon'ble friend, who opened the debate to-day with one of those speeches which we all delight to hear, had ventured to assert that the decision of the Government of India is not binding upon us, if he had ventured to suggest that though the independence of this Council is somewhat mythical, we are at liberty to disregard the views of the Government of India, and proceed with the consideration of the Bill, clause by clause, his remarks would have been perfectly intelligible to me. If, on the other hand, my hon'ble friend had taken up a more moderate position and had ventured to suggest that the Council should approach the Government of India and respectfully ask for a re-consideration of their decision, on the ground that the views of the Members who represented the interests of the Corporation had not been rightly appreciated, his remarks would have been perfectly in order. In support of such an amendment, it would have been open to me to show that the despatch from the Government of India was remarkable for the fact that the conclusions embodied in it were not deducible from the premises. To take a concrete instance, in support of such an amendment, it would have been perfectly legitimate to show that assuming, as indeed it is assumed in the 13th paragraph of the letter from the Government of India, that the allegation is well-founded, that the existing Corporation has devoted itself to speech rather than to action; assuming further, that in order to check the abuses and anomalies complained of, it is necessary to reduce the numerical strength of the Corporation; assuming all this, it does not necessarily follow that the proposed reduction should be confined to the body of elected Commissioners alone. Indeed, if these positions are granted, and I shall assume for my present purpose that they are granted, it would follow that the reduction should not be confined to the body of elected Commissioners alone, but should be extended to the body of nominated Commissioners as well; unless, indeed, the Government is further prepared to affirm that the vice of speech without action is monopolised by the elected Commissioners, and the abuses complained of are

[*Dr. Asutosh Mukhopadhyaya ; Babu Jatra Mohan Sen ; Mr. Oldham.*]

traceable to them exclusively. But these comments, however just and well-founded they may be, are somewhat pointless in relation to the amendment before the Council. If these considerations cannot have any practical effect on our action in the present stage of the Bill, I submit with great confidence that the wisest course would be to refrain from such ineffectual criticisms. At the same time I frankly confess that the amendment proposed by my hon'ble friend seems to me a very reasonable one, and it has my hearty support."

The Hon'ble BABU JATRA MOHAN SEN said:—"I do not propose at this late hour to enter into a detailed examination of the proposals of the Government of India, especially those relating to the proposed reduction in the number of elected Commissioners and the introduction of the Bombay system into our municipal constitution which I intended to dwell upon. The matter has been sufficiently discussed by the Hon'ble Member who proposed the amendment, but I should like to offer one or two observations. The spirit in which, and the courtesy with which, the Government of India has dealt with this subject has led me to entertain the strongest hope that if a proper representation is made to the Government of India on the subject they will be prepared to re-consider the matter. But the reason why we should accept this amendment is supplied by the letter of the Government of India itself, where it is *said* that the proposal which they now make is new, having never been suggested before. That being so, it cannot be doubted that a proper and sufficient time should be allowed to the public to express their opinions on the matter, and to press their representations upon the Government of Bengal, the Government of India and upon the Select Committee, and it is proper and I should say just that further time should be given to enable the Select Committee to entertain and consider the views that may be expressed by the public on the changes which are proposed to be made in the Bill. It is therefore desirable, that the amendment proposed should be adopted."

The Hon'ble MR. OLDHAM said:—"Sir, my hon'ble friends who represent the Corporation have twice appealed to me for confirmation of their statements, and though I am able to give that confirmation, the fact in no way diminishes the strenuousness with which I would oppose this amendment. They have made some general remarks in which my name has been brought in, in corroboration, and I beg, Sir, for permission to reply to them. The Hon'ble Mr. Apcar

began his speech by pointing out that the diminished representation now proposed to be given must have the effect of obliterating the Muhammadan representatives on the Corporation. But what are the actual facts under the present constitution which he defends and would maintain? In the General Committee of the Corporation which was elected the other day, so far as it is composed of elected Commissioners, there is not one single Muhammadan, and so far as it is composed of nominated Commissioners, only one Muhammadan has been returned, my noble friend the Sahibzada Mahomed Bakhtyar Shah, who is not even a resident within the Corporation's area."

The Hon'ble MR. APCAR said:—"I was referring to Muhammadans in relation to the wards."

The Hon'ble Mr. OLDHAM continued:—"I understand my friend's correction, but do not see how it lessens the force of what I say. The whole controversy hitherto has turned upon the constitution of the General Committee which is the embodiment of the elective and representative principle in the whole Corporation, and Muhammadans are excluded from it. Therefore, the present constitution does not allow adequate Muhammadan representation, and Government must be looked to for a new constitution to redress the balance. My hon'ble friend went on to deny that there was anything like a Hindu predominance in the Corporation. He said that this Hindu predominance was an absolute myth. How can he possibly reconcile that statement with the facts? The Hindu predominance is an absolute demonstrable fact, and is the fact which induces me to oppose this motion for postponing the debate. It is true that I do not join, and have never joined, in the indictment against the Corporation. For more than a year I have been a Commissioner myself, and have worked with them, and therefore have been able to understand more clearly than before how, from time to time, such men as Sir Henry Harrison and Mr. Cotton and Mr. Lee, and now the present Chairman, Mr. Bright, have stood forth as the champions of the Commissioners. I believe them to be an upright and devoted body of men who have carried out with singular ability the duties entrusted to them, but I deny that they are representatives. Why in the very ward in which I live, and in which, under pressure of the plague, I have become a self-constituted Ward Commissioner, though the European vote is far stronger than the Indian vote, my elected colleagues are two

[*Mr. Oldham.*]

Muhammadan gentlemen, one of whom is not even a resident. Taken by itself the circumstance is one which I personally could not regret, because one of these colleagues—a young gentleman, Maulvi Agha Mahomed Musa by name—was last year the life and soul of the Ward Vigilance Committee in the constant duties which it undertook, and you, Sir, have already acknowledged the usefulness of the work done by these Ward Committees. But though I congratulate myself on having such a colleague, this result was a happy accident, and he was in no sense a product of a representative system. Such a system has been tried as an experiment, and the experiment has completely failed. I do not concur with the Hon'ble Mr. Mackenzie in the history he has given of the introduction of Local Self-Government and in the reasons he assigns for excepting Calcutta and the other Presidency towns from the measures announced in 1882. There is no doubt in my mind that, in the year 1876, it was intended to give as full a measure of representative government to Calcutta as was possible, and that in 1882, when Local Self-Government for the interior was introduced, the Presidency towns were excluded from the new provisions, only because a measure intended for the mufassal could not be framed on so broad a basis as one for Calcutta. This does not alter the fact that the system of representation tried in Calcutta has failed. In 1888 it was amended in some respects, but still it failed. It was an experiment from the first, and the failure has been so complete that, unlike the speakers on the other side, I think that Government has still in this matter a *tabula rasa* on which to write, and a clear field for the trial of a different plan.

"My hon'ble friend, Babu Surendranath Banerjee, in the beginning of his speech, dwelt upon the broad basis upon which his remonstrance was founded. He referred to the popularity of the broad principles of Local Self-Government, which, I say, does not exist in Calcutta and to the general feeling on the subject among the people, while, so far as I have been able to see, no such general feeling exists in this City. It is now more than a year since this agitation has been started: we have had the means of observing it, and the longer it has progressed the more clearly it is seen that it is focussed in and confined to the class whom my hon'ble friend represents—I mean, the Bengalis. Perhaps at this stage I should ask what exactly we mean when we speak of the Bengalis? I daresay a person who thought himself well informed might reply that they are the people living under the government of the

Lieutenant-Governor of Bengal, and that there are 72 millions of them. There is no need, in this Council, to dilate on such a delusion as that. But whom do we mean when we speak of the Bengalis? We only mean that intellectual race who are now competing with us in nearly every field, and I think out-stripping us in some. We mean only those whom I would call the Brahman and the lesser Brahman. By the lesser Brahman I particularly refer to the Baidya, who occupy in Bengal the place taken by the Kshatriya in Upper India, and who are sprung from the Brahman, the honoured offspring, though not the heirs. Then there is the great class or caste of the Kayastha, with whose claims Mr. Risley was so much impressed that, in that monumental work of his, he assigns them in Bengal a position almost higher than the Brahman's. This, however, the Brahman or the Baidya would not concede, and I think that I say nothing derogatory of the Bengali Kayastha when I refer to them too as lesser Brahman. I do not forget that from the habits of life of the Brahman there were associated with them in their households others who thus managed to partake of their influence and their lore; and so we see accounted for some of the nobility of Bengal, among them that distinguished lady, the late Maharani Swarnamayi; or as another instance, that eminent man, a patriot and a Bengali, the late Kristo Das Pal; or in another direction, our distinguished fellow-citizen and man of science, Dr. Mahendra Lal Sircar. But such exceptions only emphasize the fact, precisely as the Hon'ble Mr. Apcar's presence in their ranks does, that the class to which I refer is a single class, the Brahman and the lesser Brahman.

"The opposition which this measure has met is wholly a Hindu opposition, and I can now further narrow it down by pointing out that it is wholly a Bengali opposition. I deny that they are anything like a numerical majority in this City, or among the rate-payers. To make an estimate, you must eliminate all Europeans, Australians, and Americans, and foreigners; all the numerous Hindustanis and Uriyas; all Muhammadans; and also all those who do not belong to races or castes from whose hands a Brahman can take water; and then you will have left the Brahman, the lesser Brahman and the nine castes, who are an absolute and comparatively small minority of the Calcutta rate-payers. It is impossible to give the exact figures because the Census has not distinguished the Hindu inhabitants by race, and the next Census should do so. But, as one instance, I would appeal to the figures of the Excise Revenue in

[*Mr. Oldham.*]

Calcutta alone as showing the immense numerical superiority of the races in Calcutta who do not follow the well-known habits of temperance and abstinence observed by the Brahman and the lesser Brahman—that is, the Bengalis, of whom I speak. I have already acknowledged the intellectual superiority of these people; but it is also a fact that the power of expression with which they are gifted is out of all proportion to their numbers. Because they express themselves so well and their intellectual powers are so high, we cannot be blinded to the fact that they are monopolising the sole power in the Corporation. That they have used their powers otherwise well I have admitted, and to this I can testify. But their monopoly is complained of by others, and as long as it exists there is no representation in its true sense in this City. As regards the complaints against this monopolising, the case briefly is that the City was founded 200 years ago by Englishmen on a site which even now, in common parlance among the people, is said not to be India, for it is a country which the Pandavas never visited. The town was founded for commercial purposes and as a commercial colony, and in this colony the Indian colonists were allowed to join. They came first for security, and then for the sake of partnership, and later on for their own comfort and for the pleasures and advantages of civilization, and it is these last comers who are now found fighting for political power with the successors of the English settlers, and a small body of them is actually and exclusively predominant in the civic Government. I cannot say that they have usurped this power. They have attained it by fair means and their own abilities, and because it was left to them. But it has become a monopoly and is complained of, and as it is not representation, it has to be taken from them for it has turned out to be something quite different from what was intended. The sole difficulty I have found, so far as my own attitude in the case was concerned is, that we are now endeavouring to take away, after 21 years, a power of which they have been faithful trustees and which they have exercised so well.

"I have accorded my tribute to the Commissioners, though it must be remembered that in doing so I speak as one of them, who cannot appraise them so justly as an outsider. Nor do I by any means admit that they are perfect on all points or that their efficiency cannot be improved, or that it is not necessary to improve that efficiency. They themselves do not represent business or commercial classes, but all belong to a particular class—the Bengali

literate class—the lawyers, the journalists, the professors. I do not suppose, Sir, that any one can imagine that when I enumerate these classes I do so with any tinge even of disparagement—the lawyers, the professors, the journalists—the classes who have always stood in the fore front where liberty and culture prevailed. The point in the present connection is that they are not the business men in a commercial city, they are untrained in the work they have to do, and they have no administrative experience. Last year, for nine months, I had the honour to hold the position of Chairman of the Port Commissioners, a body to whom both the Hon'ble Mr. Mackenzie and the Hon'ble Mr. Apcar have alluded; and though there is no constant parallel between their work and that which comes before the General Committee of the Corporation, there are many subjects which should be dealt with in the same way. I used sometimes to come from a meeting of the Port Commissioners to a meeting of the General Committee, and I am free to admit that I found myself more at home in the Committees of the Corporation than among the Port Commissioners. The reason was that the former's method was the method to which I was used, that is, the lawyer's method, to get to the bottom of a case by laborious inquiry and painful analysis and purely intellectual effort. In the Port Commissioners I found myself associated with 14 men who were a great deal better than myself as regards the business which had to be done, because they thoroughly understood it beforehand and knew how it was to be carried out. Their Chairman fulfilled an entirely different function and, but that it seems to reflect on the Corporation I would say that, while among the Port Commissioners the Chairman talked and the Commissioners acted, in the Corporation it was the Commissioners who talked and the Chairman who had to take action, and then to answer to the Commissioners. The two bodies of course are differently constituted. But it is true that in the Corporation, while the Chairman is too often left to himself and without support, the Commissioners, on the other hand, fail to realize the tremendous strain they put upon him and on all their Executive by the other demands they make upon their time in meetings. In many matters, as, for instance, in the great drainage works now in progress, the General Committee of the Corporation might well take lessons from the Port Commissioners, and under the provisions of the Bill they will be able to have the benefit of that administrative experience and business knowledge which is the common quality

among the Port Commissioners, but in the General Committee practically does not exist. In fact, the only business man among them is my friend Babu Nalin Behari Sircar whom I notice opposite as an attentive listener, of whom Sir Alexander Mackenzie in this place said the Corporation could not dispense with his services.

"I see I have made a note about the parallel which my hon'ble friend (Babu Surendranath Banerjee) drew from a comparison with certain towns in England where the population is on much the same scale as that of Calcutta. I submit that there is no such parallel because the populations of those towns are homogeneous, and I have described how very different it is in Calcutta where, in consequence, the balance has constantly to be adjusted. Then there is that argument which has so constantly been brought forward, and which Sir Stuart Hogg seems to have originated. I mean the birds-of-passage argument. I remember Sir Stuart Hogg's regimé well. Benevolent it was no doubt, but it was despotic and autocratic to a degree which it is hard to realize in times like these. When I think of him as using this astounding argument, I can only look on him as giving up, with both hands, in the very plentitude and wantonness of power, everything that might be urged on his side. Do those who use this argument as applied to Calcutta ever reflect on the circumstances and Municipal Government of the city of London? I mean of the area lying within the old gates and walls, the jurisdiction of the Lord Mayor, and I suppose the richest and most famous Corporation in the world? Will they urge that the business men who manage it, because they are only too anxious to leave it, and will not even pass their nights within it, but, when they have finally done with it, betake themselves to the country, and often to distant lands, are unfit to manage it and are not interested in its Municipal Government? Why should it be supposed that Englishmen who look forward to retiring from business should be less concerned in the welfare of Calcutta and in the efficiency of its Government? Is it even *primâ facie* probable that the English, after founding and developing a city in the East, which has come to be one of the great cities of the world, would be as careless about its future as about its present? And this is what the argument really implies."

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR, said:—"Your Honour, I beg to propose as an amendment that instead of two weeks four weeks' time be allowed, so that the public might have sufficient time to consider the Bill and submit their views upon it."

[*Mr. Baker; the President; Raja Bahadur of Nashipur.*]

The Hon'ble MR. BAKER said:—"I rise to order. The Hon'ble Member is precluded from moving this amendment. Under the Rules no amendment can be moved without previous notice given."

The Hon'ble THE PRESIDENT said:—"I must point out that under Rule [illegible] of the Rules for the Conduct of Business in the Council the Hon'ble Member is out of order, and I regret I cannot allow him to move his amendment."

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR, continued:—"I bow down to Your Honour's decision and I shall not take up the time of the Council with any lengthy observations, but I desire to offer a few remarks on the proposals now before the Government.

"We are grateful to the Government of India for the very kind and sympathetic way in which they have perused various criticisms on the Bill and for the kind assurance they have given that there would be no contravention of the broad principles of Local Self-Government already conceded. The Government is disposed to grant us a concession in the constitution of the General Committee on the model of a Standing Committee of Bombay; but, Sir, we could not welcome this concession as the number of elected Commissioners in the Corporation is reduced to half, and the Corporation itself is not allowed a free hand in the election of two-thirds of the members of its General Committee, like that of Bombay. I think the Government is inclined to reduce the numerical strength of the Corporation, on the belief that the existing Corporation has devoted itself to speech and to criticisms rather than to action. As I have no personal experience into the working of the Calcutta Municipality, I must refrain from making any observation on the point; but the Resolutions on the Administration Reports of the Calcutta Corporation of previous years recorded by Your Honour's predecessors in office, extracts of which I shall read with Your Honour's permission, will show that there has been marked and gradual improvement in the administration of the Calcutta Corporation and that its Commissioners all along have done excellent work.

"I quote extracts from the Resolutions on the Annual Administration Reports for the years 1889-90, 1890-91, 1891-92, 1892-93 and 1893-94:—

'The Lieutenant-Governor considers that these results, showing how largely the Commissioners devote their time and trouble without remuneration to municipal duties afford the

[*Raja Bahadur of Nashipur.*]

the most satisfactory evidence of the growth of public spirit in the Metropolis.'

"And again.....

'Upon the whole, there can be no doubt that the administration of the Calcutta Municipality during the past year was marked by very satisfactory progress, great attention to work on the part of the Commissioners and improvement in all directions.'

&c., &c., &c., &c.

'(Notwithstanding defects of form which have been pointed out, the report discloses much excellent work done by the Commissioners and real progress made in several important branches of municipal administration.'

&c., &c., &c., &c.

'In conclusion, the Lieutenant-Governor desires to congratulate the Commissioners on the improvements in the administration which have been carried out during the year and on the progress which have been made in works beneficial to the health and prosperity of the city.'

&c., &c., &c., &c.

'The Commissioners themselves have, as a whole, displayed a care and attention to their duties, which is very meritorious and has in some cases risen to the level of devotion.'

&c., &c., &c., &c.

'The thanks of the Government are due to the Commissioners for the interests which they have displayed throughout the year in the administration of the Corporation and the time and trouble which they have bestowed on the large questions as well as matters of detail brought under their consideration.'

"The present number of Commissioners was fixed after a mature and deliberate consideration, and I do not think that there has been any special necessity to make such a radical change now in that respect. If the Government of India have come to the final determination to reduce the numerical strength of the Corporation, I beg to submit that the reduction should not fall on the shoulders of the elected Commissioners only, as in such a case it will strike at the very root of Local Self-Government, the fundamental principles of which will be violated. If, following the Bombay system, the Government is inclined to reduce the number of elected Commissioners, I beg respectfully to point out that the system proposed to be introduced here materially differs from that adopted in Bombay. The Bombay Corporation elects its own President

[*Raja Bahadur of Nashipur; Mr. Baker.*]

and the Standing Committee its own Chairman; but here the official Chairman acts as President of both the Corporation and General Committee. And again in Bombay, though only half the number of Commissioners is elected at ward elections, out of other half 16 are elected by Justices, 2 by Fellows, and only 2 by the Chamber of Commerce. But here there is no election by Justices or Fellows, and no seat is allowed even to native merchants or house and land-owners; whereas 10 seats are allowed to European mercantile communities. So, Sir, if the Bombay system is at all to be given a trial here, I beg to submit that it be adopted in its entirety, and that out of 25 seats reserved for nominated and appointed Commissioners, other representative bodies of Calcutta, such as the British Indian Association, the National Chamber of Commerce, the National Muhammadan Association, and the like, should also be allowed to be represented in the Corporation, and the Corporation should be left unfettered in the election of two-thirds of the members of the General Committee. As the Government appoints 4 members of the General Committee, I humbly think that the Government appointees in the Corporation should have no voice in the election of the rest of the members of the General Committee. In conclusion, I leave the matter in Your Honour's hands with the full confidence that under your benign and sympathetic rule our appeal will not go in vain."

The Hon'ble MR. BAKER said:—"The discussion to-day practically divides itself into two parts, which have but a slender connexion with one another. In the first place, we have the amendment moved by the Hon'ble Babu Surendranath Banerjee, the effect of which is to extend the time in which the Select Committee is to report from two weeks to six weeks, and to invite further expressions of opinion from the Corporation and other public bodies. In the second place we have the lengthy, elaborate, and I may say discursive, criticisms which have been delivered to-day—not only upon the proposals of the Government of India, but upon a great variety of other matters, which, in my judgment, are not, strictly speaking, before the Council. I shall deal with these two matters separately; and, as the amendment of my hon'ble friend is a comparatively small matter, I shall take it up first and very briefly; because what my hon'ble friend said upon it has already been met by the Hon'ble Mr. Mackenzie. I am entirely opposed to the proposal to postpone the consideration of the Bill by the Council for six weeks, because, as the Hon'ble

Mr. Mackenzie has said, if this is done, it will be absolutely impossible for the Council to dispose of this Bill during the present session. To-day is the 7th August. If we give six weeks to the Select Committee to submit its report, that will carry us on to the 18th of September. Then, when the report is submitted, it will be necessary to re-publish the Bill as amended by the Select Committee, and that will involve another fortnight's delay. That will bring us to the beginning of October, shortly before the Puja holidays when no business can be done; and it will be necessary for the Council to adjourn, so that we shall not be able even to begin the discussion of the Bill itself before the cold weather session. There are the strongest grounds for deprecating any such delay. The Bill has been before the public and the Council for a long time, and the subject has been discussed for, I think, two and a half years. It is now eight months since the Bill was formally introduced. During that time it has received an enormous amount of most minute and most careful criticism and examination, not only by the Corporation and the various public bodies to whom it was referred, but also at the hands of the Select Committee. And it is unhappily true that some of the proposals in the Bill have given rise, among a certain class, to a good deal of bitterness and recrimination. The constitutional sections of the Bill are regarded in some quarters with dislike and even with dismay. I think therefore that any further delay is greatly to be deprecated. During the last two years, the Municipal Commissioners, the Municipal Executive, and the Municipal establishments have been in a state of agitated suspense and uncertainty—a state of things which cannot but do harm, and cannot conduce to harmonious or efficient working. It is imperatively necessary, therefore, to bring this unfortunate controversy to a termination with the least possible delay, and I trust the Council will not endorse any device for protracting the matter further.

"The hon'ble mover of the amendment has referred to the 8th paragraph of the letter of the Government of India, and said that in that paragraph the Government of India indicated certain features of the Bill which are not in entire accordance with the principles of Local Self-Government, and he suggested that it would therefore be necessary for the Select Committee to go through the Bill over again. Now, that is not the case at all. In the very next paragraph of their letter the Government of India indicate what are the features to which they take exception, and in a subsequent part of

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the letter they indicate the remedies which in their opinion should be applied. It is to those features only that the Select Committee will have to refer; and they will not have to go through the whole Bill again. It has been said by the hon'ble mover of the amendment that the Corporation ought to have an opportunity of expressing their views. That is not an argument to which I can attach much weight. The Corporation is very strongly represented in this Council by six, if not seven, members, who are also members of this Council. What the Hon'ble Member probably referred to was the elective section of the Corporation, but even that is most fully, and, if I may venture to say so, most efficiently represented by the hon'ble mover of the amendment and the Hon'ble Mr. Apcar, who are both elected members of the Corporation. We have heard to-day the exhaustive and vigorous attack on the proposals of the Government of India with which the two Hon'ble Members have favoured us, and I think every one of us here will agree that they have left the Corporation little or nothing to say. I do not think that if an opinion was called for from the Corporation, they would be able to add one single observation or argument which has not already been adduced, or to bring forward one single new fact or illustration in support of those arguments. The proposals of the Government of India are no doubt very important, but, as has been pointed out, they are comparatively simple, and it is possible to state the substance of them in a very few words. The amendments which will be necessary to give effect to those proposals are comparatively few and comparatively simple. They are already in print, and if the Select Committee will give their attention to the matter, I feel sure there will be no difficulty in completing the amendment of the Bill in the manner which is desired by the Government of India within the period which has been named in my motion. That is all I have to say in regard to the amendment now before the Council.

"I now turn to the much more important proposals of the Government of India which have received the acceptance of the Bengal Government. I will divide the proposals of the Government of India into two parts—first, I will consider that portion of the proposals which relates to the constitution of the Corporation itself, and then I will deal with what has been said with regard to the constitution of the General Committee.

"Primarily, the proposal put forward by the Government of India is that the number of the elected Commissioners shall be reduced from 50 to 25, and that the number of the whole body be reduced from 75 to 50. The reasons given

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by the Government of India for these proposals are two. In the first place they point out that in the past the Commissioners have been too much addicted to talk—to speech and criticism—rather than to action, or to allowing action to be taken, and the Government of India consider that the reduction in their number will tend to prevent this tendency in the future. Secondly, they consider that by this reduction there will be established in Calcutta a strict equality and balance of interest between the European and native elements in the Corporation, or, as I should prefer to put it, between the elected Commissioners on the one hand and the representatives of the Government and of foreign trade on the other.

"With regard to the allegation that too much time is taken up in making speeches, I do not desire to say very much. Both the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Apcar have challenged it, and the former has referred to the opinion expressed by Sir Henry Harrison in 1888. Personally, I have never attached much weight to the proposal to reduce the number of Commissioners, *per se*, and I am much inclined to agree with Sir Henry Harrison that the time taken up in speaking does not depend so much upon the number of the Commissioners as upon the number of those who desire to speak. I rather doubt whether, if the total number of Commissioners is reduced by one-third, there will be a proportionate reduction in the time occupied in speaking. But there is good deal to be said on the other side. In the first place, the proposal for a reduction in the number of Commissioners does not stand by itself. It is intimately connected with and forms an integral part of the very important reform proposed for the re-adjustment of the balance of interests between the two wings of the Corporation. Then, again, Sir Henry Harrison was no doubt a very strong and efficient Chairman, and his opinion on all municipal matters carries high authority; but there have been strong and efficient Chairmen since his time. *Vixere fortes post Agamemnona*, if I may vary a well-worn quotation; and some of these strong and efficient successors of his have held a very decided opinion that the present number of Commissioners is too great for efficient administration. And, lastly, there is the undoubted fact, which cannot be denied, that 50 Commissioners are not likely to take up so much time in speaking as 75 Commissioners; so that there will be some reduction in the time taken up in talk, although it may not be in proportion to the actual numerical reduction.

[*Mr. Baker; Babu Surendranath Banerjee.*]

"But the second reason adduced by the Government of India for the reduction of the number of Commissioners is of much greater weight. To my mind it goes to the root of the whole matter, and it will be necessary for me to occupy the attention of the Council for some little time in dealing with it. Some of the Hon'ble Members have told us to-day that taxation is the only true basis of representation; and that no system of government which does not place the municipal administration of Calcutta in the hands of the elected representatives of the rate-payers is in accordance with the true principles of Local Self-Government. I understand that this is a correct description of the proposition laid down by the Hon'ble Babu Surendranath Banerjee. The Hon'ble Mr. Apcar pointedly drew attention to the fact that a very small proportion of the municipal rates is paid by the mercantile community in Calcutta. The hon'ble mover of the amendment informed us that the Ward Commissioners were the elect of the people, although he was good enough to admit that they were not actually elected by the whole of the rate-payers. I fully expected that some figures would have been laid before the Council by the Hon'ble Members who opposed my motion, to show to what extent the elected representatives on the Corporation do actually represent the people of Calcutta; but they have not done so. I will now supply that omission. I will refer to the figures of registered electors and the figures of registered rate-payers. The number of registered voters in Calcutta is 13,890; *i.e.*, about 2 per cent. of the total population. The number of rate-payers is 60,518; that is the number of persons who pay the consolidated rate. There are also a certain number of persons who pay other municipal taxes, such as the tax on horses and carriages, the tax on carts, the license-tax on trades and professions, and other small items. It may be taken that the total number of rate-payers of all kinds is between 62,000 and 63,000. Now I will ask the Council to consider the true significance of these figures—13,890 against 63,000."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Those who do not pay Rs. 24 a year should be excluded."

The Hon'ble MR. BAKER continued:—"What has been said is that the elected Ward Commissioners are the representatives of the rate-payers. But the figures show that they are not elected by so much as

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one-fourth of the total number of rate-payers. The total number of persons entitled to exercise the franchise in Calcutta is less than one-fourth of the rate-payers, less than 2 per cent. of the whole population, and less than 3½ per cent. of the whole male population of the town. This is a state of things which has not even an approximate parallel in any town in England of which I am aware. The hon'ble mover of the amendment has referred to some figures showing the number of members of different Corporations in England. They are, I believe, quite accurate, and I think the Hon'ble Member is entitled to all the advantage he can derive from them. But I should like him to look further into the statistics of the cases he has cited—towns like Glasgow, Leeds, Birmingham, Hull and Manchester—and to compare the proportion of voters and of registered electors with the total population of the town. He will then find that in Glasgow there is one registered voter for every seven of the population; in Birmingham, one in five; in Leeds, one in four; while in Calcutta, the number is one in fifty of the population. In English towns women have votes; in Calcutta that is not the case. Therefore to make the comparison fair, it is necessary to take only the male population of Calcutta, which, according to the last Census, was 415,000. This means that the number of registered electors is only 3½ per cent. of the whole number of males. Is it not obvious upon the face of these figures that no sort of conclusion can be drawn from them to show that the elected representatives of the rate-payers in Calcutta have any claim to be considered as standing on the same footing as the corresponding representatives in England? Do they not knock the bottom out of the claim that the elected Ward Commissioners are representatives of the rate-payers?

"Some people in this country talk of the elective system as if it was an end in itself. The hon'ble the mover of the amendment said that the Ward Commissioners were the elect of the people, that the supreme power of control should be vested in the elected representatives of the rate-payers, and that to reduce their number would be to lay the axe at the root of the principles of Local Self-Government. It is, I assert, nothing of the kind; the elective principle is only a means to an end. A far safer guide, the only safe guide, for our present purpose, is to have regard to the principle of representation, the representation of interests. It is because the system of election in Calcutta has

wholly failed in practice to yield truly representative results that it has been found defective and now stands in need of reform. That system has hitherto placed the whole executive power in the hands of a single class,—I mean the middle-class Bengali Hindus. The Hon'ble Mr. Apcar in his speech denied that there was any Hindu predominance. But I maintain that the fact is notorious and cannot be denied. Out of the 50 elected members of the present Corporation, 37 are Bengalis, and it is my experience and the experience of every one who has sat on the Municipal Board, and more especially on the General Committee, that the Hindu representatives on the Corporation can, if they wish it, sweep everything before them. [The Hon'ble MR. APCAR said:—"My point is that they do not sweep away everything in their own way."] I do not wish, for one instant, to say a single word in disparagement of this class, or in depreciation of their merits and many good qualities. There are many among them whom I am proud to regard as my personal friends, and I hope that there are some of them who look upon me in a similar light. But is it in accord with any legitimate scheme of Local Self-Government, that the whole administration of municipal affairs in a town such as Calcutta should be placed in the hands of a single class, and that class one which, as Mr. Risley has pointed out, has no special aptitude for trade and who look upon the foreign commerce and trade of Calcutta as no particular concern of theirs?

"We have been told that the Europeans, including Eurasians, form a small numerical minority of the whole population, and we have been told that the amount of taxes paid by the commercial community is comparatively insignificant. The proportion they pay is commonly said to be 30 per cent. [The Hon'ble MR. APCAR said:—"Personally they may pay largely, but as business firms they do not pay much."] It is argued from these facts that it is unreasonable and unjust that the Government and the commercial community should receive an equal degree of representation with the native and non-commercial classes. The Hon'ble Mr. Apcar spoke as if the Corporation had created Calcutta. I deny that statement. I altogether reject the proposition that you can rest any conclusion as to the representation of interests upon the basis of mere numbers or of the payment of municipal rates. There are two great causes which have made Calcutta what it is, which have raised it from being a small, obscure thinly populated village, to its present position as a great, rich, flourishing and populous city. The first is the fact that for many years it has been the seat

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of the Government, both of the Imperial and Provincial Governments, and the capital of the greatest Empire in this Continent; and, secondly, the fact of the existence in it of an enormous foreign trade. It is no exaggeration to say that these two causes acting together, and more especially the second of them, have actually created and called into existence nine-tenths of the whole value of property in Calcutta. The Hon'ble Mr. Oldham has referred to figures relating to the Excise Revenue of Calcutta. I will refer to the figures of the Income-tax. If the Council refers to the Income-tax returns, they will find that in a single year the towns of Calcutta and Howrah taken together pay Income-tax approximately equal in amount to that which is paid by the whole of the rest of Bengal taken together. And to what is that due? If we subtract from the Income-tax paid by Calcutta the amount paid by the great body of Government servants; if we subtract the whole amount paid by the jute, cotton and paper mills, and by European and native firms engaged in the foreign trade of the port; and if, lastly, we subtract the amount paid by the great army of other people who are attracted to Calcutta to minister to the wants and supply the needs of those classes, how much will remain? It will not be more than the merest fraction of what is paid at present. The Hon'ble Mr. Oldham also referred to the great foreign population of Calcutta. I do not think it is generally known how large a proportion of the population of Calcutta is composed of foreigners—foreigners not merely to the city, but to the province of Bengal. The other day I had occasion to look at the last Census Report of Calcutta, and on glancing at the table dealing with language, I found some very striking figures. The total population is put down at 650,000 persons, and of these only 360,000 claimed Bengali as their mother-tongue. The remainder, 290,000, claimed as their mother-tongue some language or languages none of which are indigenous within 250 miles of Calcutta. Even this is not all; for it is notorious that a great number of those who serve as clerks, who work in such numbers in Government and business offices in Calcutta, are not natives of this city, but have come here to earn their livelihood. Can we imagine what would be the fate of Calcutta if, by any cataclysm of nature or any political misfortune, it should cease to be the seat of Government and be deprived of its foreign trade? Can any limit be placed on the degree of ruin in which all classes would be involved? Nine-tenths of the value of landed property would be swept away, and in a brief

space of time the town would dwindle away to the level of Port Canning or Diamond Harbour. As Mr. Risley admirably expressed it when introducing the Bill in Council, landlords would lose their tenants, lawyers would lose their clients, shops would lose their customers, schools would lose their pupils, and Calcutta would sink to the position of a city of the dead, a decayed and deserted capital, like Bruges, or Ravenna, or the once famous Cinque Ports.

"To measure the relative importance and value of the interests represented by Government and foreign commerce by the amount of municipal rates which is paid by traders, is much as if we should seek to measure the value of national education by the salaries paid to the teachers; or the value to the country of a great railway by the dividends paid to the shareholders. These two interests—the interests represented by the Government and by foreign commerce—are of greater importance and value to the well-being of Calcutta than all other interests taken together; and, so far from its being unjust to give them an equal measure of representation on the Municipal Board, I maintain it would have been perfectly legitimate and equitable to give them a still higher proportion.

"The Hon'ble Babu Surendranath Banerjee has referred to the fact that in 1876 Sir Richard Temple would have been prepared to accept a proposal to fix the proportion of elected Commissioners at three-fourths of the whole number upon certain conditions, that is, that different nationalities should be represented. I think Sir Richard Temple was referring to the motion brought forward by the Hon'ble Mr. Brookes on behalf of the non-official Europeans. The Hon'ble Member also mentioned the motion brought forward by Mr. Irving in 1888 to reduce the proportion of elected Commissioners from two-thirds to one-half. I am glad that these two proposals have been referred to, because they illustrate, in a very significant way, the attitude of the non-official Europeans in this matter, and the growth and development of opinion amongst them. Mr. Brookes brought forward his motion in 1876, at a time when the principle of election was entirely untried in Calcutta, and no one knew how the principle would work in practice. The whole thing was an experiment. The opinion which Mr. Brookes expressed was based entirely upon *à priori* principles. It was not derived from experience. But twelve years' experience was quite sufficient to teach the non-official Europeans their lesson. During these twelve years they saw how the elective

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system had worked, and they took the earliest opportunity in their power of proposing that the number of elected members should be reduced to more reasonable proportions. I think the motion brought forward by the Hon'ble Mr. Irving in 1888 was entitled to greater weight than that of the Hon'ble Mr. Brookes in 1876, for the reason that the one was based upon experience, while the other rested only on theory.

"The Hon'ble Mr. Apcar has made what I can only regard as an attack upon certain proceedings of the Municipal executive. It does not appear to me that that is a matter altogether germane to the motion before the Council; and I regret the more that it was made because I have no personal knowledge of the facts and am not in a position to make any remarks upon them. But I am given to understand that there is a complete answer to all that the Hon'ble Mr. Apcar has said, and that although the facts stated by him are substantially accurate, nevertheless the inferences he sought to draw from them are entirely incorrect.

"A good deal has been said, in the course of to-day's proceedings, about the Bombay system and of its advantages and disadvantages, and the Hon'ble Babu Surendranath Banerjee was at some pains to declare that he was opposed to that system, and so also was the Hon'ble Mr. Apcar. I understood the former to suggest that the Government of India were under a misapprehension in quoting a certain passage in the Note of Dissent signed by the Hon'ble Babu Surendranath Banerjee and Babu Norendra Nath Sen as indicating that those Hon'ble Members were in favour of that system. Since this correspondence was published, I have noticed that the passage in question in the Note of Dissent has been adversely criticised, in some of the Anglo-Indian papers, as calculated to mislead, and it is possible that these criticisms were in the mind of the Hon'ble Member when he made the disclaimer I allude to. Now it is not within my province to intervene between the Hon'ble Member and his critics, and I do not doubt that he is quite able to take care of himself. But in fairness to the Hon'ble Member I ought to state clearly that neither he nor Babu Norendra Nath Sen at any time gave the Select Committee to understand that they were in any way advocates of the Bombay system. On the contrary, on one occasion when this matter came incidentally before the Select Committee, the Hon'ble Member expressly stated that they did not want the Bombay system. There has certainly never been any misapprehension in my mind as to the attitude

of these two gentlemen in this matter, and I think the other members of the Select Committee, if referred to, will bear me out.

"On the other hand, I do not think that the Government of India can fairly be charged with any misapprehension. An attentive study of their letter of the 17th June will show that the Government arrived at their preference for the Bombay system as a model for Calcutta, by an entirely independent examination; and in paragraph 15 of that letter they plainly state that their preference had been actually expressed at a very early stage in the history of the Bill. The proposals of the Government of India have been arrived at without any reference to the Note of Dissent, and it is obvious to any one who will read the Note of Dissent that the two things are far from identical. The Government of India have never proposed to introduce the whole of the Bombay system into Calcutta, neither has any one else that I know of. What has been proposed is to select certain features of the Bombay system which have been found by experience to work well, and which appear to be suited to the arrangements of Calcutta, and then to engraft those features upon the Calcutta constitution. Each of the parts so proposed for importation rests upon its own merits, and in no case has any suggestion been put forward merely because it forms part of the Bombay system.

"Both the Hon'ble Babu Surendranath Banerjee and the Hon'ble Raja Ranajit Sinha Bahadur complain that the arrangements proposed by the Government of India, in respect of the constitution of the Corporation, do not follow in substance the Bombay model. Even if it were true they do not follow the Bombay model, I am not particularly concerned to defend it, because, as I have said before, there has never been any intention to follow that model slavishly; but when these gentlemen tell us that the basis of the Bombay system is not one-half elected and one-half nominated members, I must challenge their allegation. [The Hon'ble BABU SURENDRANATH BANERJEE said:—"I said that if a close analysis is made between the system in force in Bombay and the system now proposed, it will be found that they are not identical."] I do maintain this, that the basis of the Bombay constitution is undoubtedly one-half elected and one-half nominated Commissioners. Who are the Justices in Bombay? How do they get their appointments? These Justices in Bombay do not correspond to the Honorary Magistrates in Calcutta; they do not try cases like Honorary Magistrates do here. What their functions are I do not know, except

[*Mr. Baker.*]

that they have the power of returning a certain number of members to the Bombay Corporation. But one essential feature regarding them is this—that the whole of the Justices are nominated by the Government, and they hold their office purely and simply as nominees of the Government, and therefore, in effect, there is no practical difference between the Justices nominating certain members of the Bombay Corporation and the fifteen Commissioners who are to be nominated by the Government here. If the Hon'ble Member contends that the Councillors elected by the nominated Justices owe their seats to election, why does he object, as he has done, to the precisely similar arrangement which is proposed for the General Committee? It has been said that four of the members to be elected to the General Committee by the nominated Commissioners will be nominees of the Government; how then can he say that the 16 members to be elected by the Justices in Bombay are not nominees of the Government?

"The Hon'ble Mr. Apcar said something to the effect that the reduction in the number of Ward Commissioners from two to one in each ward will have the effect of entirely disfranchising the Muhammadan community. That statement has to a considerable extent been answered by the Hon'ble Mr. Oldham. The Muhammadan community possesses nine per cent. of the voting power; possibly a considerable number of them will be knocked out; but I am not prepared to admit that the whole of them would be. If it were so, the remedy would be in the hands of the Government, who would nominate a larger number of Muhammadans. The Hon'ble Mr. Apcar said that would diminish the power of the Government to nominate representatives of other communities; but the inference is not correct; because, as the total number of Commissioners is reduced, the relative value of each nomination will be increased, and the powers of the Government will in no way be affected.

"This is all, I think, I need say in reference to the first part of the proposals of the Government of India in regard to the constitution of the Corporation. I now turn to what has been said in regard to the constitution of the General Committee.

"The object of the proposal regarding the constitution of the General Committee, the main object, is to get rid of the want of similarity which existed in

the original Bill between the constitution of the General Committee and the constitution of the Corporation. Surely this object is sufficiently reasonable in itself not to call for any elaborate defence? There can be no doubt that the absence of similarity in the constitution of these two co-ordinate authorities is a possible source of friction and of danger, and to a certain extent it was a defect in the original Bill. And no one pressed this argument in the Select Committee with greater force and persistence than the Hon'ble Members who represented the Corporation. It was probably unavoidable, so long as the elected Commissioners outnumbered the nominated Commissioners by two to one. But now that these two wings are to be made of equal strength, the reason for it disappears.

"From some remarks which have been made to-day, it seems to be supposed that in the General Committee there will not be a true balance of interests between the two parties—the elected section and the nominated section. Some gentlemen seem to think that the Government will invariably select its four members from among the nominated Commissioners only. I know of no authority for such a suggestion. The Government intends to preserve an absolutely free hand in the selection of its four members on the General Committee; and will always endeavour to select those Commissioners who, in its opinion, are most likely to do honest and efficient work, without regard to the particular wing or section of the Corporation to which they belong.

"Then, again, it has been urged that it is wrong in principle for the Government or any outside authority to make any direct appointments to the General Committee, and that once the Corporation is constituted, by election and nomination, there should be no further interference, and that the Commissioners should be left to elect to the General Committee any persons whom they think fit in any manner authorised by law. As a matter of theory I am not prepared to accept this view without much stronger reasons than have been adduced. And as a matter of precedent, we know that this is the very system which has worked and worked well in Bombay. But, apart from either theory or precedent, there is a good practical reason why the Government should be directly represented on the General Committee. Under the law of 1888 the General Committee is a mere Committee of the Corporation; it has no powers of its own; and all its resolutions are subject to the confirmation of the Corporation in Meeting. But under the new Bill we have changed all that. Under the

[*Mr. Baker; Mr. Apcar.*]

new Bill the General Committee will become a co-ordinate authority. It will possess considerable independent powers; and none of its resolutions, with certain specified exceptions, will require confirmation by the Corporation. It will be an independent and, within its own sphere, a governing body. Therefore, it seems to me there is as much reason for Government to be directly represented on the General Committee as on the other co-ordinate authority, the Corporation itself.

"I now pass on to what has been said by the Hon'ble the Raja of Nashipur in reference to the proposal that the eight members of the General Committee who are to be elected shall be chosen in equal proportions from the two wings. He said there was no such rule in Bombay. That is quite true, but I do not admit that the fact that there is no such rule in Bombay is any reason why there should not be such a rule here. The Council are aware that in the Corporation the elected and the nominated members are to be equal in numbers. Now if we follow the Bombay rule and allow these eight members to be elected to the General Committee by the whole body of Commissioners elected and nominated, and if each section puts forward its whole voting power, then each of the two sections would be able to elect one-half of the eight members. This result is what Government desires to attain, and it has been thought desirable both by the Government of India and by the Government of Bengal that provision should be expressly made for it in the Bill, and that it should not be left to the mere chances of election.

"I think I have now answered every relevant point which has been raised. There are many other points to which I have expressly not referred, because they appeared to me to be points which go beyond the motion before us. But, so far as I can recollect, I have gathered together all the relevant arguments. I hope and I confidently expect that the Council will reject the amendment proposed by the Hon'ble Babu Surendranath Banerjee and will accept the substantive motion which I have made."

The Hon'ble MR. APCAR said:—"I desire to say a few words by way of personal explanation. The Hon'ble Member in charge of the Bill has challenged a statement I have made, and said there is a complete answer to it. I only referred to the matter in illustration of the unbusinesslike way in which the

work of the Municipality is done. If it happened to be an attack upon the Executive, I am sorry, but that was not my primary purpose. The facts were formally mentioned before the General Committee, and there was no contradiction to any of the facts I put forward. I shall be glad to supply the Hon'ble Member with a copy of my note on the subject."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"I hope and trust that the Council will not follow the advice of the Hon'ble Member in charge of the Bill and reject my amendment. The Hon'ble Member has remarked that if the amendment was accepted it would be impossible to dispose of the measure in the present session of the Council. I think that in a matter of this magnitude and importance it is very desirable that the public should have the amplest opportunity of considering and discussing the results which would follow from the adoption of the highly important changes proposed by the Government of India. I desire to correct some mistakes of fact which the Hon'ble Member in charge of the Bill has made in the course of his speech. He said that this Bill has been before the public for two years and a half, but as a matter of fact it has been before the public for one year and five months, the first intimation of the measure having been given in February, 1898. Then there are important points which the public and the public bodies have not considered, questions relating to the reduction of the number of elected Commissioners, the constitution of the General Committee and other matters. These are questions which have never been before the Corporation and the public, and I think it right that they should now be consulted in regard to them. My hon'ble friend has observed that the Corporation is well represented in this Council, and it is not necessary to refer it again to the Corporation. Why then was the Bill originally referred to the Corporation? It is a matter of the first importance, and I hope my hon'ble friend will agree to refer the Bill to the Corporation whom it most vitally affects. Let us have some more light, some kindly light thrown upon the subject. I am not quite sure that the European members of the Corporation might not be opposed to the dangerous innovations which have been proposed by the Government of India. I think it would be only fair to refer the Bill to the Corporation for their opinion upon the new proposals before the Council.

"Then there are the remarks made by the Hon'ble Member who represents the University, in the course of which he said he could not believe that

[*Babu Surendranath Banerjee; Mr. Baker; the President.*]

any criticisms which might now be made would affect the question. I regret I am not prepared to accept that view. I have said that the Government of Be[illegible] the Government of India are highly deferential to the expression of p[illegible]ion. If we are able to put forward views that are sound and reaso[illegible] have not the slightest doubt that the Government will pay to those [illegible] consideration to which they are entitled.

"T[illegible]e is the rule which guides our deliberations, that when a motion is made [illegible]rence to a Select Committee, the Members of the Council have the [illegible]unity of declaring their views on the principle of the measure so propose[illegible] be referred. Therefore, we ought to take this opportunity of saying wh[illegible] have to say, and leave it to the Government to accept or not the proposals w[illegible]h we put forward.

"I am very [illegible]rry that certain remarks should have been made in this Council which im[illegible] a reflection upon some of those who have taken part in the agitation ag[illegible]st this Bill. Such remarks are, I think, deeply to be deplored. The H[illegible]'ble Mr. Mackenzie was pleased to say that a number of agitators had got [illegible]p an agitation at public meetings in this town and elsewhere against [illegible] Bill, and that all this agitation was the work of wire-pullers, of which [illegible]overnment need not take the slightest notice."

The Hon'ble [illegible] BAKER rose to order:—"The Hon'ble Member is only entitled to reply to [illegible]arks made upon his amendment. He is not entitled to reply on the original motion."

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member can reply to the remarks which have been made."

The Hon'ble BABU SURENDRANATH BANERJEE continued:—"Men representing the largest interests in this town have taken part in these demonstrations and have recorded their protest against the provisions of this Bill, and it is idle to say that these meetings were got up by wire-pullers and political agitators. It is all very well for my hon'ble friend to call others political agitators, but what would he say if his accusers were to turn round upon him and urge that he was a bit of a political agitator himself and that he sent round a circular to the tea-p[illegible]rs of Sylhet and Cachar asking them to set up an agitation in favour [illegible] Bill? Would he not feel indignant and would we

[*Babu Surendranath Banerjee; Mr. Baker; the President.*]

not sympathize with him in his distress? At the public meetings which have been referred to, the richest men in this town were present—the represen of the Seals, the Mullicks, the Sets, the Rajas of Sobha Bazar ar us other influential families, of gentlemen who own about three the European portion of this town. What would be the fate c n'ble Member and his friends if they made up their minds to oust t' their palatial residences at Chowringhee? Why they would be lik ndering Jews and other homeless people!

"As to the voters in England, the qualification was a £10 r ich almost every householder possesses. Here it is Rs. 24 a year. [The H MR. BAKER Said:—"The comparison is not between Rs. 24 and £10, but t ual value of the house on which the tax is assessed. The valuation o ouse is £10, and every body inhabiting a house of that assessed value voter. Here it is an assessment of Rs. 150 a year."] That is so, it amounts to universal suffrage, for almost every dwelling in England h t valuation.

"Once again I desire to say, on behalf of the people Calcutta and of those whom I have the honour to represent, that if the re endations of the Government of India are embodied in this Bill, it is our c rate opinion that it would mean a death-blow to the prospects of Local f-Government in Calcutta. My hon'ble friend the Member in charge of ll is not aware of the deep-seated disappointment which will result by rus this Bill through in its final stages. It would be much better to allow little time for the discussion of this measure than to hurry it through in t ashion. That is the *dictum* of political wisdom, and I ask that the Coun will adopt that *dictum* by its vote."

The Hon'ble THE PRESIDENT said:—"It will be ected of me that on an occasion of so much importance I shall close the deb e myself. I think it is hardly necessary after the excellent speech the Co cil has heard from the Hon'ble Member in charge of the Bill. And at th stage of the afternoon, what I have to say should be said as shortly as I can I should like to speak to the Hon'ble Members who are opposed to the Bill in the frank and simple words that come from sympathy in their disappoint ents. When I first spoke upon this Bill last November, I remember saying t realised their pain and vexation. It is not possible that a measure of could have been

[*The President.*]

out rousing these feelings. Every member of a body, which
e disappointed expectation, is certain to resent the imputation
But it is against human nature not to be sorry for the man who
evertheless does not succeed. And it has been in that attitude
is Bill to-day. My regret is sincere that it should be neces-
eelings of a body whose intentions have been excellent.

last year, tenderness of feeling cannot be allowed to stand
nges that are essential to the good government of the capital
e judgment which I expressed last year, and which I
as impartial, was that the changes of constitution proposed
ial. I have listened with interest to-day to the eloquent,
actical, speeches which have been delivered in opposition.
to the assurances of the Hon'ble Members who are
ommissioners that the administration of Calcutta is all
that, if there are defects, it is not the Corporation that
, as they are, an expert, but nevertheless in a matter of
my own eyes and my own experiences, and with what-
am compelled to say that in my judgment there is
ement in the methods of administration in our city.

majority of this Council, the opinions which I expressed
e now been compelled to reiterate, and the dissents
ch were recorded by the Hon'ble Members, have now
al. I want you to consider what that tribunal is.
so completely changed within the last two years
Council is the only representative left of the body
of Sir Alexander Mackenzie in 1897. It is a body
T ienced officials in India, and it is presided over by
in Cou engaged himself, as you know, with the most
himself into the merits of this controversy. It
oversy was submitted. have no body
judgme re to be trusted.
for administration a change in the
must b that de, and that we must go still
the an ment of the constitution. That
pointment but I think all reasonable men will

[*The President.*]

admit that it is a conclusion which we must now accept without
A dissatisfied party appeals from the High Court to the Privy
if the Privy Council decides against him, he may persona
decision wrong, but there is no more to be said or done. Tha
There has been an appeal to a tribunal whose impartiality
and that tribunal with a courtesy and consideration whicl
strength of its opinion has given its judgment. To that
conform.

"Of course, it is a disappointment to the losing side.
ment I can myself participate, for the judgment is,
myself. The conclusion is not that Sir Alexander Macker
but that it did not go far enough, and that the number of
Corporation must be reduced from fifty to twenty-five. S
was of opinion that this reduction was unnecessary so
was strengthened and strong. The Select Committee
ment clear and definite powers of intervention in c
With this safeguard I myself was prepared to be r
government of the city without further change of the
the opinion of the Government of India. They
advantages and disadvantages. They give greater
danger of friction, and call upon us to make an adj
it. This is the deliberate conclusion of an impartial
regret it, just as some other Members of this Council
arguments they use have never been absent from th
or myself, and I cannot deny that in their serener
of India are better judges, than we in the stress
weight that should be attached to them. I have,
Government accepted their conclusion. I cann
bers who oppose the Bill to accept it without obje
Hon'ble Members of Calcutta will in their fur
what I have to say sh vhich
the Hon'ble Members
words that come from ion
upon this Bill last N dor
vexation. It is not

[*The President.*]

because of the notable moderation of the speeches that have been made in opposition, and, secondly, because of the assurance that my hon'ble friend Babu Surendranath Banerjee gave us in his opening speech—if he thought the Government of India had finally made up their mind, he would not waste time. That the Government of India has made up its mind he may take it from their letter to be absolutely certain. In that conclusion the Local Government has finally concurred.

"For the reasons the Hon'ble Member in charge of the Bill has given, there will be no difficulty in completing the revision of the simple details that will be committed to them within a fortnight, and I trust the Council will accept the motion of the Hon'ble Mr. Baker. There are two matters to which the Hon'ble Mr. Baker has not referred, and about which I would like to say a few words to the Council. The first is, that it was with much reluctance that I was compelled to intervene and call to order two Hon'ble Members who addressed us this afternoon. One of the points on which the expression of views was about to be made was that of the allegation of corruption among the Municipal Commissioners of Calcutta. That is a matter on which the Corporation, I see, are about to address me, and upon which the Corporation will have an immediate reply from myself. It is unnecessary to go further into it now. It is not a matter to discuss here. The second matter is as to the character of the administration of Calcutta in the past. I also ruled that this was out of order and beyond discussion, for the reason that the Government of India had come to their conclusion upon that point and had confirmed the opinion of Sir Alexander Mackenzie. The other question to which I wish to refer is that which my hon'ble friend Babu Surendranath Banerjee mentioned at the end of his first speech. He said this was a measure which was a death-blow to the prospects of Local Self-Government in Calcutta. I venture to remind him and all the Members of this Council of what I said on this subject last November. I said then that Local Self-Government was confined to no single and solitary system. Local Self-Government may be carried out and carried forward in many different forms and fashions, and the man who should refuse to amend the system of Local Self-Government, which was not fulfilling expectations, would be the most deadly enemy of the whole system of Local Self-Government. The friend of Local Self-Government is the man who accepts experience and makes modifications accordingly. Therefore, I must

[*The President.*]

take the liberty to differ from my hon'ble friend, and I can assure him that, so far from this measure being a death-blow to Local Self-Government, it is the truest help that Local Self-Government can in fact receive. Whatever disappointment it may bring to one particular class, the result will be sustained success and improvement in the administration of Calcutta."

The Hon'ble BABU SURENDRANATH BANERJEE'S amendments being put to the vote, the Council divided :—

Ayes 6.	*Noes 7.*
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Mackenzie.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Spink.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Slack.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Harley.
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Bullard.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Rai Durga Gati Banerjea Bahadur.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Colton.
	The Hon'ble Mr. Buckley.
	The Hon'ble Mr. Oldham.
	The Hon'ble Nawab Bahadur Syad Ameer Hossein.

So the amendments were lost.

The Hon'ble Mr. Baker's motion was then put and carried.

The Council adjourned to Monday, the 21st August, 1899.

CALCUTTA;
The 6th September, 1899.

F. WIGLEY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 892G—300—8-9-99.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met at the Council Chamber on Monday, the 21st August, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR.
The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

NEW MEMBER.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED took his seat in Council.

RIOTING IN THE KHULNA DISTRICT.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Is it the case that in the Annual Administration Report of the Presidency Division it is shewn that the Khulna district has returned the largest figure in the Province in rioting cases? If so, will the Government be pleased

[*Babu Surendranath Banerjee; Mr. Bolton.*]

to state the causes to which this large number of rioting cases may be traced Is it in any way connected with the inefficiency of the police? Will th Government be pleased to state what action it proposes to take in th matter?

The Hon'ble MR. BOLTON replied:—

"The Hon'ble Member has not mentioned the year of the Annual Administration Report of the Presidency Division to which he alludes. In 1897, 160 cases of rioting were reported in Khulna. They arose mainly out of disputes relating to land. Contests for the possession of land were more numerous in consequence of a good harvest, following a season of scarcity. In the large reclaimed tracts, or *abads*, moreover, the boundaries are unsettled, and the lessees and their tenants are constantly quarrelling with one another. The Magistrate took special measures to check the increase of these cases by liberally rewarding the chaukidars for giving prompt information of apprehended riots, and binding down parties under sections 106 and 107 of the Code of Criminal Procedure. Proceedings were also taken to decide cases of disputed possession under section 145 of the Code; and special police were deputed to the more important *abads*. The returns for 1898 show that the number of riots fell to 110 in that year; and in the first-half of the present year only 23 cases, one alone being serious and ending in loss of life, were reported. The measures taken by the Magistrate are sufficient, and they have been successful."

THE CALCUTTA MUNICIPAL BILL.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Will the Government be pleased to lay on the table a copy of the letter of this Government addressed to the Government of India, No. 3837M, dated the 17th June, 1897, referred to by the Government of India in their letter No. 93, dated the 17th June last, containing the following principal grounds for the introduction of the Calcutta Municipal Bill:—

(1) the complete failure of the elective system to secure adequate representation even of the different interests existing in the native city;

[*Babu Surendranath Banerjee; Mr. Baker.*]

(2) the practical exclusion of European men of business from all share in the municipal government of Calcutta;

(3) the growth of party spirit and the appearance among the elected Commissioners of a class of professional and in some cases corrupt politicians;

(4) the abuse of the Committee system, which paralyzed the Executive officers and demoralized the subordinate staff; and

(5) the consequent breakdown of the conservancy and water-supply of the town and every department of municipal administration.

The Hon'ble MR. BAKER replied:—

"The letter referred to in the Question is confidential, and cannot be published."

CHARGE AGAINST MUKUNDA SUNDER SIRKAR OF JANGIPUR.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been called to the case of one Mukunda Sunder Sirkar, of Jangipur, in the district of Murshidabad? Is it the case (1) that Mukunda Sunder Sirkar was arrested on a charge of delivering a counterfeit coin knowing it to be counterfeit, under section 241, Indian Penal Code, although his name did not appear in the first information, and the police reported there was no evidence against him; (2) that after arrest he was thrown into *hajat*; (3) that he was subsequently discharged, the trying Magistrate remarking that the witnesses who had given evidence against him had perjured themselves?

Is it the case that the gentleman against whom these proceedings were taken occupied the responsible position of Chairman of the Local Board? If

[*Babu Surendranath Banerjee; Mr. Bolton; Raja Bahadur of Tahirpur; Mr. Slack.*]

so, will the Government please state what notice the Government has taken of these proceedings?

The Hon'ble MR. BOLTON replied:—

"The Government has seen the case mentioned by the Hon'ble Member, which was decided so far back as the 14th September, 1898, or nearly twelve months ago."

ENCOURAGEMENT OF BENGALI LITERATURE.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR, said—

With reference to the principle contained in the English Enactment 53, George III, section 43, for the encouragement of the vernacular literature of this country, a portion of which I beg to quote on the margin for easy reference, will the Government be pleased to state if any amount has of late been spent in Bengal for the improvement of Bengali literature or to give encouragement to Bengali authors in the shape of rewards or honoraria?

"That it shall be lawful for the Governor General in Council to direct that out of any surplus which may remain of the rents, revenues and profits arising from the said territorial acquisitions, after defraying the expenses of the Military, Civil and Commercial establishments, and paying the interest of the debt in manner hereinafter provided, a sum of not less than one lakh of rupees in each year shall be set apart and applied in the revival and improvement of literature and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India."

The Hon'ble MR. SLACK replied:—

"The Hon'ble Member is referred to paragraph 32 of the Report of the Indian Education Commission, of which for his convenience a copy is laid upon the table. From this it will be seen that after discussion the whole sum of one lakh was given for the encouragement and promotion of education in the country, and since then has been continuously increased."

[*Raja Bahadur of Tahirpur; Mr. Slack; Raja Bahadur of Nashipur.*]

RECOGNITION OF MERITS OF BENGALI AUTHORS.

The Hon'ble RAJA SHASHI SHAKHALESWAR ROY BAHADUR, OF TAHIRPUR, said—

Will the Government be pleased to take into its consideration, with a view to encourage the growth of a healthy tone in Bengali literary works, the desirability of recognizing the merits of Bengali authors by bestowing suitable titles of distinction upon such of the eminent authors as deserve it, and by occasionally helping them pecuniarily in their efforts to bring out books of original research and of public usefulness?

The Hon'ble MR. SLACK replied:—

"Government is always willing, on due cause being shown to their satisfaction, to recognize in the modes suggested by the Hon'ble Member the literary merits of Bengali authors. The Hon'ble Member is doubtless aware of the honours conferred on Raja Rajendra Lala Mitra, C.I.E., and Rai Kali Prasanna Ghosh, Bahadur, and of the pecuniary aid given to Babu Pratap Chandra Roy, C.I.E., in the translation of the Mahabharata."

VILLAGE COMMUNICATIONS.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, asked—

Having regard to the facts that there are many villages in the interior of the districts where there are no proper roads for communication from one village to another, and that the people are much inconvenienced for want of the same, especially in the rainy season, will the Government be pleased to direct the several District Boards of Bengal to give more attention to the village roads in their respective districts and to place a certain amount of their income every year in the hands of the Local Boards, to be utilized for that purpose only?

[*Mr. Baker.*]

The Hon'ble MR. BAKER replied:—

"I lay on the table a statement showing the expenditure incurred on village roads in each Division during each of the six years ending 1897-98.

"If the Hon'ble Member will refer to the Resolutions recorded on the working of District Boards, which are published annually, he will see that the improvement of village roads has received the watchful attention of Government for many years past: the Lieutenant-Governor has no reason to doubt that these roads have received their fair share of the funds at the disposal of the District Boards."

Statement showing the expenditure incurred by the several District Boards in Bengal during the six years ending 1897-98.

District Boards in the—	1892-93.	1893-94.	1894-95.	1895-96.	1896-97.	1897-98.
1	2	3	4	5	6	7
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Burdwan Division	27,632	87,589	31,847	40,261	36,896	31,828
Presidency "	44,764	48,492	40,448	43,957	31,925	41,242
Rajshahi "	24,859	22,222	22,278	28,691	19,432	18,556
Dacca "	62,327	64,758	63,433	63,403	73,473	68,551
Chittagong "	37,364	38,718	49,196	50,149	41,066	30,681
Patna "	77,070	81,447	67,335	74,925	38,732	44,329
Orissa "	16,984	17,243	22,339	17,927	22,579	19,048
Total ...	2,91,000	3,10,469	2,96,871	3,19,313	2,64,103	2,54,235

[*Mr. Baker.*]

WATER-SUPPLY IN THE MUFASSAL.

The Hon'ble MR. BAKER laid on the table the following statement which was promised at the last meeting of the Council:—

Statement showing the amount spent on account of water-supply (including water-works) by Municipalities and District Boards in the several districts of Bengal, during the five years 1893-94 to 1897-98.

Names of Divisions.	Names of districts.	Amount spent during 1893-94—		Amount spent during 1894-95—		Amount spent during 1895-96—		Amount spent during 1896-97—		Amount spent during 1897-98—	
		By Municipalities.	By District Boards.	By Municipalities.	By District Boards.	By Municipalities.	By District Boards.	By Municipalities.	By District Boards.	By Municipalities.	By District Boards.
1	2	3	4	5	6	7	8	9	10	11	12
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Burdwan.	Burdwan ...	26,694	2,987	17,348	3,418	12,770	4,905	13,609	8,881	11,606	7,170
	Birbhum ...	252	211	250	618	96	489	469	1,368	711	5,819
	Bankur ...	.....	.....	.....	.....	.....	95	260	1,781	147	1,768
	Midnapore ...	148	452	309	708	1,155	1,823	1,705	2,815	789	3,154
	Hooghly ...	500	755	272	1,704	1,215	85	30	5,487	.....	3,117
	Howrah ...	14,527	.....	5,16,793	.....	3,46,247	.....	1,16,995	3,494	66,520	2,635
Presidency.	24-Parganas ...	27,769	820	58,836	1,672	45,848	2,690	37,837	3,334	29,895	7,084
	Nadia ...	1,561	938	3,096	3,846	1,993	2,632	5,237	3,116	3,678	1,241
	Murshidabad	.....	1,375	.....	2,911	258	507	995	2,721	3,375	5,501
	Jessore ...	1,318	885	3,344	2,660	1,437	1,125	2,054	2,805	3,092	5,585
	Khulna ...	931	1,252	395	2,569	405	556	3,253	2,469	628	1,637
Rajshahi.	Rajshahi ...	395	1	1,337	92	658	1,284	778	4,712	4,143	2,496
	Dinajpur ...	12	564	207	10	343	887	7	1,818	475	1,708
	Jalpaiguri ...	.....	1,498	6	.....	240	.....	101	.....	627	480
	Darjeeling ...	4,581	.....	18,500	.....	16,280	.....	12,625	.....	6,887	.....
	Rangpur ...	1,458	4,611	626	3,669	265	4,626	551	2,980	484	1,598
	Bogra ...	9	61	34	411	98	1,986	78	2,404	196	500
	Pabna ...	3,481	1,258	4,466	2,111	3,347	1,544	2,417	4,399	6,499	14,348
Dacca.	Dacca ...	14,798	994	14,769	1,359	16,356	2,497	13,111	5,185	31,737	3,217
	Mymensingh	33,871	2,896	12,409	3,677	8,766	8,278	12,364	13,868	12,709	27,962
	Faridpur ...	185	2,295	2,101	3,710	2,814	1,508	4,568	7,855	3,032	8,468
	Backergunge	748	6,146	118	3,904	4,520	4,627	2,676	7,320	1,026	14,644
Chittagong.	Tippera ...	4	145	208	269	12	1,246	865	1,365	577	7,672
	Noakhali ...	511	781	440	1,183	465	2,227	365	2,042	388	4,318
	Chittagong ...	504	413	505	27	814	2,610	910	665	218	3,379
Patna.	Patna ...	.....	1,679	.....	2,590	55	1,868	1,198	999	4,574	879
	Gaya ...	1,007	.....	3,015	3,470	2,011	2,480	4,731	3,473	4,065	1,605
	Shahabad ...	25	2,545	1,00,335	425	5,792	2,794	7,593	3,138	5,580	2,342
	Saran ...	99	238	283	3,476	259	3,533	342	9,271	1,209	3,847
	Champaran ...	.....	.....	138	1,235	49	1,290	558	1,763	750	5,993
	Muzaffarpur	427	2,789	762	4,953	414	3,183	2,157	4,893	1,307	2,438
	Darbhanga ...	9	.....	404	695	149	1,479	702	511	1,115	2,371
Bhagalpur.	Monghyr ...	223	4,180	400	4,443	765	7,857	254	10,086	1,080	5,853
	Bhagalpur ...	12,435	148	25,933	649	15,821	1,271	2,34,461	11,218	49,274	43,877
	Purnea ...	103	.....	970	510	630	748	330	1,557	746	1,240
	Malda ...	.....	.....	.....	.....	100	.....	21	1,513	3	.....
	Sonthal Parganas.	331	.....	549	.....	226	.....	514	.....	169	.....
Orissa.	Cuttack ...	679	280	995	874	429	1,040	282	47	1,343	7,550
	Balasore ...	.....	.....	447	19	753	.....	383	.....	81	.....
	Puri ...	2,083	.....	22	.....	.....	124	48	1,125	12	2,995
	Hazaribagh ...	154	.....	1,097	.....	236	.....	665	.....	384	.....
	Lohardaga ...	307	.....	[illegible]	.....	163	.....	200	.....	302	.....

[*Mr. Baker.*]

The Hon'ble MR. BAKER replied:—

"I lay on the table a statement showing the expenditure incurred on village roads in each Division during each of the six years ending 1897-98.

"If the Hon'ble Member will refer to the Resolutions recorded on the working of District Boards, which are published annually, he will see that the improvement of village roads has received the watchful attention of Government for many years past: the Lieutenant-Governor has no reason to doubt that these roads have received their fair share of the funds at the disposal of the District Boards."

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		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
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	Chittagong ...	504	418	505	27	814	2,610	910	665	218	3,379
Patna.	Patna ...	.....	1,679	.....	2,590	55	1,868	1,198	999	4,574	679
	Gaya ...	1,007	.....	3,016	3,470	2,011	2,480	4,731	3,473	4,066	1,605
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	Malda ...	.....	.....	.....	.....	100	.....	21	1,513	3	.....
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	Balasore ...	.....	.....	447	19	783	.....	383	.....	81	.....
	Puri ...	2,082	.....	22	.....	.....	124	48	1,125	12	2,955
[illegible]	Hazaribagh ...	184	.....	1,097	.....	336	.....	565	.....	284	.....
	Lohardaga ...	607	.....	[illegible]	.....	163	.....	300	.....	302	.....
	Palamau ...	150	.....	[illegible]	.....	631	.....	[illegible]	.....	317	.....
	Manbhum ...	[illegible]	.....	[illegible]	.....	[illegible]	.....	[illegible]	.....	931	.....

CALCUTTA MUNICIPAL BILL.

The Hon'ble MR. BAKER presented the further Report of the Select Committee on the Calcutta Municipal Bill together with two notes of dissent.

CIVIL COURTS AMINS' BILL.

The Hon'ble MR. BOLTON moved for leave to introduce a Bill to repeal the Civil Courts Amins' Act, 1856, in Bengal. He said:—

"With Your Honour's permission I will offer some remarks on the measure at this stage.

"In the course of the discussion of the last Financial Statement I stated, in reply to Raja Bahadur Ranajit Singha, that the Government intended to submit this Bill to the Council. Messrs. Toynbee and Stevens, who were deputed some years back to report on the strength and pay of the ministerial establishments of the Civil Courts in this Province, brought to notice the very unsatisfactory working of the system of Civil Court Amins, and recommended its abolition. Their view was accepted by the Government, and eventually by the High Court, and it will, I think, be generally admitted that a change in the present system is desirable. The Act of 1856 provides for the appointment of paid Amins in the districts for the carrying out of local enquiries required by the Civil Courts and for other specified duties, and the difficulty of finding a suitable non-official agency for such duties in those days doubtless rendered the provision necessary. Every district, however, now possesses a large Bar, from the junior members of which competent persons could be selected to act as Commissioners for local investigations ordered by the Civil Courts under section 392 of the Code of Civil Procedure, and other qualified persons are also available. A certificate of qualification in surveying will be needed in the case of enquiries involving surveys, but those who desire employment of this kind will have facilities for acquiring a knowledge of surveying in the survey schools which exist in all parts of the Province. The retention of the present system is, therefore, no longer necessary, and the Bill proposes its abolition by repealing the Act of 1856, so far as it applies to Bengal. The abolition can, however, only be effected gradually. The appointment and remuneration of the existing Amins must be saved, but it will no longer be compulsory to fill vacancies, and

[*Mr. Bolton; the President.*]

gradual reductions will thus take place until the staff disappears. The new system will probably be confined in the first instance to the more advanced districts, in which it may be expected that a sufficient number of independent persons competent to execute commissions will be forthcoming.

"The Bill consists of a single section, which repeals the Act, saves the appointments of the existing Amins, and provides for their employment on such duties as may be required of them by the District Judge. It will, I presume, meet with no opposition, and its reference to a Select Committee appears unnecessary."

The Motion was put and agreed to.

ADJOURNMENT OF COUNCIL.

The Hon'ble THE PRESIDENT said:—"It had been my intention to adjourn the Council till Saturday the 2nd proximo, but I have been moved by two of the Hon'ble Members to postpone the next meeting till the 9th of September. They represent that they will not be ready before that date with the amendments of the Municipal Bill, which they wish to bring forward. I cannot admit that the time given for the preparation of these amendments has been inadequate. The Bill is not a new one. It was under the patient consideration of a Select Committee of this Council for five months. The report of that Committee has been before the Council now for nearly four months, and the hon'ble gentleman, who represents the Corporation, succeeds the careful labours of his predecessor, and the Select Committee of which his predecessor was a member. I cannot, therefore, admit that the Hon'ble Members who have moved me in this matter have a sound claim for the postponement for which they ask. I understand, indeed, from my hon'ble colleague, Babu Surendranath Banerjee, that he does not justify their unreadiness, but appeals to our consideration on the simple ground of fact that they will not be ready. I yeild with reluctance, for a postponement will be of inconvenience to many other Members of the Council, but I am desirous of meeting the wishes of the Hon'ble Members as far as is possible, and I assent to the adjournment of the Council till Saturday, the 9th September."

The Council adjourned to Saturday, the 9th September, 1899.

CALCUTTA;
The 12th September, 1899.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 423G—300—13-9-99.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

THE Council met in the Council Chamber on Saturday, the 9th September, [illegible].

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. F. HANDLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble MR. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

QUESTIONS AND ANSWERS.

ALLEGED ILLEGAL SENTENCE.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

Has the attention of the Government been drawn to the case of one Hazla, who was convicted in May last by the Sub-divisional Officer of Ranigunj of grievous hurt for having assaulted an old khansama named Hossein Buksh and knocked out two of his teeth, and was sentenced to a fine of sixty rupees, or in default to suffer rigorous imprisonment for six weeks? Did the Magistrate in

[*Babu Surendranath Banerjee; Mr. Bolton; Raja Shashi Shakhareswar Roy, Bahadur, of Tahirpur.*]

his judgment say: "I consider that Hazle committed a cowardly assault on a defenceless old man, and that he should not be lightly punished?" Is not a sentence of fine illegal upon conviction in a case of grievous hurt under section 325, Indian Penal Code, which makes it obligatory upon the Magistrate to inflict a sentence of imprisonment? Having regard to the character of the assault committed by Hazle, which has been described by the Magistrate as "a cowardly assault upon a defenceless old man," and the obvious illegality of the sentence of fine, will the Government be pleased to take such action as the justice of the case may demand?

The Hon'ble MR. BOLTON replied:—

"The attention of the Government was drawn to the case mentioned by the Hon'ble Member. Tho conviction and sentence, and the law as to the punishment for the offence of grievous hurt, are correctly stated in the question. The passage quoted also appears in the Magistrate's judgment. The accused was an Eurasian gunner-guard of the East Indian Railway. The Magistrate thought a fine of Rs. 60 adequate, and awarded Rs. 25 to the complainant as compensation, besides a small sum for costs. The character of the punishment, it is evident, was carefully considered by the Magistrate, with full regard to the circumstances of both the complainant and the accused; it was acquiesced in by the complainant, who could easily have moved the Magistrate of the district in the matter; and probably, therefore, the sentence, which gave him a compensation, was that which satisfied him. In these circumstances the Government did not interfere."

AID TO SANSKRIT, PERSIAN AND ARABIC SCHOOLS.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR, asked—

Will the Government be pleased to lay on the table a short statement showing the total number of indigenous Sanskrit Grammar schools and the total number of indigenous Persian or Arabic schools that are receiving pecuniary help in any shape from the funds at the disposal of Local and Municipal Boards in Bengal and the amount of aid received from Local and

[*Raja Shashi Shakhareswar Roy Bahadur, of Tahirpur; Mr. Slack.*]

Municipal Boards in Bengal by each of these two classes of indigenous schools during the last three years?

The Hon'ble MR. SLACK replied:—

"No returns giving the details asked by the Hon'ble Member are furnished to Government."

ENCOURAGEMENT TO INDIGENOUS SCHOOLS.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR, asked—

Will the Government be pleased to state how far, in its opinion, the Local and Municipal Boards are, in the matter of affording encouragement to the indigenous Sanskrit and Persian Grammar Schools of this Province, carrying out in practice the recommendations contained in paragraph 675 of the Report of the Education Commission, extracts from which, for convenience of easy reference, I beg to quote in the margin?

"That where Municipal and Local Boards exist, the registration, supervision and encouragement of indigenous elementary schools, whether aided or unaided, be entrusted to such Boards; provided that Boards shall not interfere in any way with such schools as do not desire to receive aid or to be subject to the supervision of the Boards."

"That the aid given to elementary indigenous schools be a charge against the funds at the disposal of Local and Municipal Boards, where such exist; and that every indigenous school, which is registered for aid, receive from such boards the aid to which it is entitled under the rules."

"That the officers of the Education Department keep lists of all elementary indigenous schools, and assist the Boards in selecting schools to be registered for aid, and in securing a proportionate provision of education for all classes of the community."

The Hon'ble MR. SLACK replied:—

"All the information on the matter to which the Hon'ble Member alludes in his question is contained in the annual reports submitted to Government by the Director of Public Instruction. A copy of the latest of these reports, *viz.*, that for the year 1897-98, has been given to the Hon'ble Member, whose attention is invited to paragraphs 220 to 228 of the report. The Government will welcome from the Hon'ble Member any information he has in regard to the contributions to these schools, and will consider with him whether any action is necessary."

[*Mr. Bolton; Babu Boikanta Nath Sen.*]

THE CIVIL COURTS AMINS BILL.

The Hon'ble MR. BOLTON introduced the Bill to repeal the Civil Courts Amins Act, 1856, in Bengal, and moved that it be read in Council. He said:—

"I beg now to introduce the Bill to repeal the Civil Courts Amins Act of 1856, in Bengal. In asking for leave at the last meeting of the Council I explained the reasons which have led the Government to the conclusion that it is desirable to abolish the system of Civil Court Amins and leave the Courts free to select Commissioners for local inquiries under section 392 of the Code of Civil Procedure. I stated that the Commissioners would be selected from the junior Pleaders and other competent persons in the districts; and rules as to the remuneration of such Commissioners will, no doubt, be issued by the High Court. The existing Amins will not be prejudiced by the repeal of the Act. They will retain their appointments, and be employed on such duties as may be assigned to them, including local inquiries in districts in which there may not be a sufficient number of competent persons for appointment as Commissioners. The present measure meets, I believe, with general approval, and, as it merely repeals the Act in Bengal, with the proviso that the appointment and pay of the existing Amins are saved, I do not propose to move that it be referred to a Select Committee, unless any Member of the Council desires that the reference should be made. The Bill will be published in the next Gazette, and I shall take an early opportunity of moving that it be considered in Council and passed. Any suggestions with regard to the working of the new system which any Hon'ble Members or outsiders may wish to offer will be gratefully received by the Government and fully considered."

The Hon'ble BABU BOIKANTA NATH SEN said:—"With your Honour's permission I beg to offer a few remarks with regard to this Bill. As I have just come from the mufassal, and the mufassal people know a good deal of the working of the Civil Courts Amins Act, and as my experience extends over a period of 35 years, I happen to know something about the working of this Act. After the Civil Courts Amins Act was passed, came in the Civil Procedure Code of 1859, that is, three years after that. Provisions were made in the Civil Procedure Code of 1859 for the appointment of Commissioners to hold local investigations, adjust accounts and effect partitions. Since then, the Civil Procedure

[*Babu Boikanta Nath Sen.*]

Code has been amended several times. We have the authority in the Local Government to frame rules as to the qualification of Commissioners to be appointed for executing such commissions. Practically, now-a-days, commissions are issued simply for holding local investigations to Civil Court Amins, and partitions and adjustments of accounts are effected through other agencies. This Bill no doubt is a very short Bill, but its potency should not be judged by its dimensions, because large interests are entrusted to those Commissioners, especially in districts subject to diluvion and alluvion. There can be no possible objection whatsoever to the repeal of this Act; in fact, perhaps many would hail it with joy. But the Government is now attempting, in order to secure efficiency, to raise the status of the Commissioners who are to be employed for such purposes. I would only venture to submit that, after the repeal of this Act, the Government will have to frame further rules under section 392, Civil Procedure Code. Perhaps it would not be out of place if I were to suggest, as I consider these rules will have to be looked upon as a mere supplement to this Act, that the Commissioners be selected from the junior members of the Bar, being sufficiently qualified; and a certificate of some sort may be enjoined upon them to be produced. Of course it is not for me to suggest in what particular way the certificate is to be obtained. A legal knowledge of sifting evidence is absolutely necessary; as these Commissioners will hold local investigations, they have to sift evidence on examination of witnesses. Then, if it be enjoined further that service as a Commissioner for holding local investigations in a certain number of cases be a condition precedent to the appointment of a Munsif, I submit that it would be raising the status of the Commissioners, and would at the same time be making provision for securing greater efficiency in respect of surveying works by the Judicial Officers as well. I do not mean to make any reflection on any one, but I do mean to say that even amongst the present Munsifs and Subordinate Judges only some are acquainted with surveying and many of them find difficulties in disposing of cases in which there are complicated questions of surveys and maps. In the course of 25 years, perhaps, if these posts of Munsifs and Subordinate Judges are filled up by these men, then I daresay there would be efficiency secured, and if the expectation be held out to these junior members of the Bar, that that would be a sort of stepping-stone to get the appointment of Munsif, it

would have a moral influence over them, and it would be safeguarding against dishonesty. I submit therefore that if, in framing the rules which will have to be framed, these matters be considered, then no doubt proper measures would be taken for securing efficiency and honesty. There is also another aspect of the question which I would venture to submit. The Bengal Tenancy Act also contemplates local investigations. In the case of determination of the incidence of a tenancy, and in the case of a demand for enhancement of rent on the ground of the rate of rent being below the prevailing rate, local investigations are contemplated. If uniformity in the execution of commissions is to be attained, and if I rightly understood from the Hon'ble Member in charge of the Bill that the object is to dispense with paid official agency and that non-official men are to be employed to a certain extent, in that case these Commissions might also be entrusted for execution to these junior members of the Bar; but there is this difficulty, that in the Tenancy Act it is provided that the commission is to be issued to a Revenue-officer. Of course, this would necessitate a modification of the Tenancy Act itself. With these remarks I beg to entirely support this Bill, which ought to be passed without being referred to a Select Committee."

The Hon'ble MR. BOLTON in reply said:—"I am very glad to have heard the remarks made by my hon'ble friend Babu Boikanta Nath Sen. They will be useful in the consideration of the rules which should be passed with regard to the qualifications, especially in surveying, and the remuneration, of the persons employed under section 392 of the Civil Procedure Code. The Hon'ble Member's suggestion that qualification in surveying, as displayed in the carrying out of these local inquiries, should be held to give a claim to junior Pleaders to appointment to Munsifships is also well worthy of consideration. I should myself be disposed to put that suggestion in this way, that these local inquiries should be entrusted to the junior Pleaders who are already registered as candidates for Munsifships, rather than that junior Pleaders who have been employed on these inquiries should have a claim to be registered as candidates for Munsifships. We shall, after the repeal of the Act, have to communicate with the High Court with regard to the rules to be framed, and the present suggestion will be communicated to them for consideration and advice. The second suggestion made by the

[*Mr. Bolton; Mr. Baker; the President.*]

Hon'ble Member was that these junior Pleaders might be employed in inquiries under the Bengal Tenancy Act; but he admitted himself that a difficulty exists, inasmuch as the section of the Bengal Tenancy Act which provides for local inquiries in rent suits specifies the employment of Revenue-officers. Under these circumstances, until that section is amended—and that must form part of an amendment of the Tenancy Act generally,—I fear that no change can be made. Only two years have elapsed since one Chapter of the Tenancy Act was amended, and that was a sufficiently formidable undertaking. The Government will certainly be slow to undertake a general amendment of the Act. The employment of Pleaders in these rent-suit inquiries, which my hon'ble friend Babu Boikanta Nath Sen would like to see introduced, is, therefore, unlikely to be accomplished for some time to come. I now move that the Bill be read in Council."

The Motion was put and agreed to.

The Bill was read accordingly.

THE CALCUTTA MUNICIPAL BILL.

The Hon'ble MR. BAKER moved that the two Reports of the Select Committee on the Calcutta Municipal Bill be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee.

The Hon'ble THE PRESIDENT said:—"Before we begin the discussion of the amendments which have been tabled, it may be as well that I should make a short statement on the matter. The main principles of the Bill have been settled by the Council. These are, in essence, four. The first is that there shall be three co-ordinate authorities, the Corporation, the General Committee, and the Chairman. This was settled in the debates of April, 1898, and has been approved by the Government of India. The second is that the Corporation shall consist of 50 members, 25 elected and 25 nominated. This was recommended to us by the Government of India, and accepted by us in our reference to the Select Committee last month. The third is that of the General Committee two-thirds shall be elected by the Corporation in equal

proportions by the elected and the nominated Commissioners, and the remaining one-third by the Government. This was recommended to us by the Government of India; it was in line with the adjustment of the General Committee on which the Council decided in April, 1898, and it was accepted at the discussion of last month. The fourth and last is that the powers and functions of the Chairman and also of the General Committee shall be so clearly defined that within the limits of the powers and functions assigned to them their responsibility shall be exclusive and complete, and they shall not be subject to interference by the Corporation except when this is expressly provided in any case. This was accepted as the result of the discussions in April, 1898. These are the four essential and cardinal principles of the Bill. Some of the amendments of which notice has been given directly traverse these decisions of the Council. It will be my duty to declare that these are not in order. There is a body of amendments of such vast dimensions, which are in order, and which we shall have individually and carefully to discuss, that I should not be doing my duty to the Council at large, if I admitted, in addition, the re-opening of discussion on the essential principles of the Bill, on which decisions have already been arrived at by the Council. I shall have the less hesitation in pursuing this course because every assistance which it was in my power to give has been given for the presentation of views on these points, which differ from those of the majority of the Council. The Bill has now been 18 months before the public. The principles were stated and discussed at three meetings of this Council in March and April, 1898. The conclusions of the Council were opposed in the long and interesting Minute of Dissent by two Members of the Select Committee. The variations proposed by the Government of India were again discussed at the Council meeting of the 7th August, and all that could be said against the further conclusions of the Council is embodied in the further Notes of Dissent by the dissenting Members of our second Select Committee. There is thus on the records of the Council a complete statement of the arguments on which the minority of the Council maintained an opinion opposed to that of the majority, and no object could be attained by a reiteration of those arguments."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"With Your Honour's permission may I be permitted to say a few words by way of explanation, at any rate, of the attitude which the minority of the Council have felt it their duty

[*Babu Surendranath Banerjee; the President.*]

to take with regard to some of those amendments to which Your Honour has just referred? Some of us have been connected with this Council for a long time. I consider myself to be one of the oldest Members of this Council, in the sense that my connection has been of the longest standing, and I may say for myself that, with the exception of the two cases which have been brought to my notice by the Hon'ble Mr. Baker, I do not remember a single instance in which any amendment has been ruled as being out of order because that amendment traversed any principles which have been accepted by this Council. And, Sir, referring to a discussion which took place in 1888 upon the Calcutta Municipal Act, I find that principles, the most vital, were traversed on the occasion when the motion for the third reading of the Bill was made and with the full concurrence of the President and the Hon'ble Member in charge of the Bill, and they were traversed by no less a distinguished authority than the Hon'ble Mr. Justice Gooroo Das Banerjee, who was at that time a Member of this Council."

The Hon'ble THE PRESIDENT said:—"This is a question of order. I have stated the reasons which have led me to say that on certain main principles of the Bill there can be no further discussion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I merely wish to place our case before Your Honour if you will grant me the indulgence to do so. I think it my duty to point out to Your Honour that you are making a departure from those principles which have been affirmed before. I would point out that the principle of amalgamation was accepted by the Council in 1888, and it was the main purpose of the Bill. Dr. Gooroo Das Banerjee brought in an amendment traversing that very principle, and it was allowed by the Lieutenant-Governor at that time and by the Hon'ble Member in charge of the Bill. My friend Babu Kali Nath Mitter traversed another principle almost as important, namely, the principle that the representative element should consist of three-fourths of the entire body. He was allowed to bring in a motion to that effect, and Mr. Irving brought in a motion of an opposite kind, namely, that only one-half of the members should consist of the representatives of the rate-payers. Therefore there are these precedents where the principle was affirmed, namely, that amendments were allowed which were in conflict with the principle already accepted by the Council, and it seems to

[*Babu Surendranath Banerjee; the President; Mr. Baker.*]

me, Sir, having regard to the character of the Bill and the popular dissatisfaction which it has excited, that it is unwise to curtail discussion and shut out amendments on a ground which is altogether new and unprecedented according to the Rules of this Council."

The Hon'ble THE PRESIDENT said:—"I think the Hon'ble Member will admit that if we are to permit the re-opening of discussions which have been concluded, we shall never get to the end of this business, and whatever may have been done in an individual instance, I think the majority of the Council will agree with me in thinking that the re-opening of the discussion of the principles of the Bill is no longer admissible."

The Motions were then put and agreed to.

The Hon'ble MR. BAKER said:—"Before Mr. Apcar puts the amendments which stand in his name, I should like to make one suggestion. It will be seen that the amendments Nos. 3, 4 and 10* all hang together. They are in form a mere matter of nomenclature, and the substantive amendments which they are dependent on are Nos. 16,* 25, 26,† 39 and 53.‡ If these three first amendments, Nos. 3, 4 and 10,* are to be regarded as a mere matter of nomenclature, then I think, Sir, it will be convenient if the consideration of them is postponed until after we have decided the substantive amendments on which they hang. If, however, they are not to be regarded as a mere matter of nomenclature, but as involving a principle, then I have no objection to their being discussed at once in their present place; but an adverse decision of the Council upon those three amendments would have the effect of striking out all the substantive amendments which would in that case depend upon them. Therefore I would venture to suggest for your consideration that amendments Nos. 3, 4 and 10* be postponed and taken up along with the discussion on No. 16*, which is the first of Mr. Apcar's substantive amendments on this point."

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* Amendments Nos. 3, 4, 10 and 16 are printed on page 247, *post*.

† Amendments Nos. 25 and 26 are printed on pages 252 and 253, respectively, *post*.

‡ Amendment No. 39 was "that in section 8 (*now* 9), sub-section (*1*), the words from and including 'and the Chairman' to the end of the sub-section be omitted." The amendment was put and lost at the meeting held on the 11th September, 1899.

Amendment No. 53 was "that a new section, numbered 8A, be inserted in the Bill." This amendment was withdrawn at the meeting held on the 11th September, 1899. The said section is printed in the Proceedings of that date.

[*Mr. Apcar; the President; Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. APCAR said:—"With regard to amendment No. 3*, it is a matter of nomenclature, and it relates to the proper designation to be given to the head of the Executive. I am going to submit that the Chairman should not be, as there designated, the head of the Executive, and if he is the head of the Executive, he should not be also the Chairman of the Corporation."

The Hon'ble THE PRESIDENT said:—"Then I understand the Hon'ble Member agrees to postpone the discussion of these amendments until we reach the substantive proposals upon amendment 16*."

The Hon'ble MR. APCAR said:—"I have no objection to amendments 3, 4 and 10* standing over as the Hon'ble Member suggests, to be taken up after the amendments referred to."

SECTION 5.

The Hon'ble MR. BAKER said:—"The next two amendments, 5 and 6, relate to definitions, and it is the practice to take amendments dealing with definitions at the close of the Bill, when the whole of the substantive provisions have been disposed of. I would therefore suggest that those two amendments, which stand in my name and in that of the Hon'ble Mr. Buckley, may be allowed to stand over for the present."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"They are such small matters that we can settle them at once."

The Hon'ble MR. BAKER then moved the following amendment, numbered 5, namely, that for clause (*1*) of section 3 the following be substituted, namely,—

'(*1*) "bazar" means any place of trade (other than a market) where there is a collection [illegible]s or warehouses.'

He said:—"It is rather difficult to explain the reason of this amendment without referring to a subsequent section of the Bill. We discovered, in looking over the sections of the Bill which relate to markets, that there was no provision which would enable us to require the owner of a bazar to introduce sanitary reforms. We could not compel him to supply water to it or to pave it or cleanse it or to do the same things to it which the owner of a market is bound to do under section 507A (*now* 486)†; for a 'bazar,' as defined

* Amendments Nos. 3, 4, 10 and 16 are printed on page 247, *post*.

† The sections of the Bill having been re-numbered under the direction of the Council, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Buckley.*]

in the Bill, is not the same thing as a 'market.' Therefore, in communication with the Chairman, I propose to alter the definition of 'bazar' given in the Bill. The definition given in the Bill is this: 'Bazar means any place of trade where there is a collection of shops or warehouses, and includes any place where a market is held.' Well, I propose now to define bazar in such a way as not to include a market. A market includes a place where there is a collection of shops for the sale of food or where there are stalls for the sale of food. I propose to alter that definition so as to make 'bazar' and 'market' two distinct things, and I shall subsequently propose in section 507A (*now* 486) to insert the words 'or any bazar' after the word 'market.' I understand the Hon'ble Babu Surendranath Banerjee, to whom I have spoken on the subject, is in general agreement with me. Therefore I shall say nothing further on the matter."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I entirely agree with the Hon'ble Mr. Baker; in fact, I suggested to him that there was an omission in the Bill, and that we did not provide in the Bill for those sanitary measures which were required to be introduced not only in markets but also in bazars. Take, for instance, China Bazar. It is a place which requires a good deal of sanitation, but under the Bill as it was circulated we did not appear to take any powers which would enable the Corporation to make any sanitary arrangements in connection with China Bazar. It struck me that this was a matter of importance, and I placed myself in communication with my friend the Hon'ble Mr. Baker, and I am glad to give him my vote in this matter."

The Motion was then put and agreed to.

The Hon'ble MR. BUCKLEY moved the following amendment, numbered 6, namely, that the following clause be inserted in section 3, namely:—

'"domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse class" nor a "public building" as defined in this section.'

He said:—"The motion which I have to submit to the Council relates to the definition of 'domestic building.' The rules which are contained in Schedule XIVA (*now* XVII) of the Bill and which deal with certain conditions applicable, as the Bill now stands, only to dwelling-houses, were based mainly on the provisions of the London Building Act. That Act not only dealt with dwelling-

[*Mr. Buckley; Babu Surendranath Banerjee; Mr. Baker.*]

houses as defined in that Act, but also with domestic buildings. Now, a dwelling-house is obviously a domestic building, but every domestic building is not necessarily a dwelling-house. For instance, under the terms of the definition of the London Building Act, a shop or a stable or, here in Calcutta, a kitchen, is a domestic building. Obviously it is not necessarily a dwelling-house. Now, some of the rules which are incorporated in Schedule XIVA (*now* XVII) of the Bill were clearly intended by the Calcutta Building Commission, on whose recommendations these provisions were mainly framed, to apply to such buildings as shops and stables. I will give one example. Under section 24 of Schedule XIVA (*now* XVII) there is a condition that there must be a certain space between two dwelling-houses. The reason of that rule is to prevent the formation of very narrow gullies running between houses, and the Bill provides that you must either make the space of a certain width or you must place the neighbouring buildings in contact with each other. It was obviously the intention that that condition should not only apply to dwelling-houses but also to shops and stables. It is therefore necessary that we should make a certain alteration in this Schedule by introducing the words 'domestic building.' The alteration will affect some other portions of the rules in the Schedule, but I do not think that Hon'ble Members will raise much objection to the results which will follow. I therefore move the amendment which stands in my name."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am sorry to have to oppose this amendment. The amendment runs as follows:—

'"domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse-class" nor a "public building" as defined in this section.'

"Take the case of a Hindu temple. That would be a 'domestic building' under this definition."

The Hon'ble MR. BAKER said:—"If the Hon'ble Member will look at the definition of 'public building,' he will find that all places of public worship are included in it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am quite aware of that. There are places of Hindu worship which are places of private and not of public worship. Here is a case in point. The late Babu Jadula

[*Babu Surendranath Banerjee; Mr. Baker.*]

Mullick had a temple attached to his house, but it is not a public temple in any sense of the term. My friend has been sufficiently long in the country to know that there are Hindu gentlemen who have temples in their own houses. They are not public places of worship in the smallest degree; but if you accept this definition, you would apply all the elaborate provisions of the building sections to these private places of worship, and I as a Hindu feel it my duty to protest against a provision of this kind. I think it is a matter that ought not to be overlooked. It will introduce serious complications in connection with places of worship. And then, again, take the case of a kitchen. A poor man has got a kitchen. That again comes within the definition of 'domestic building,' and are you going to apply to a kitchen all those elaborate rules with regard to buildings which you have found it necessary to introduce in this Bill? I hope and trust that, having regard to these circumstances, Your Honour will not consent to the acceptance of a definition which might be attended with serious complications, especially in regard to matters religious."

The Hon'ble MR. BAKER said:—"I think I can re-assure the Hon'ble Member. There is no intention whatever of applying all the provisions of the Building Regulations or of the Schedules either to private temples, or to kitchens, or to anything else of that kind. The sole intention is to substitute the words 'domestic building' for 'dwelling-house' in a very few of the rules in Schedule XIVA (*now* XVII). The principal one is the rule which provides for open spaces. Rule 20 of Schedule XIVA (*now* XVII) is as follows:—

'Every room in a dwelling-house which is intended to be used as an inhabited room—

(*a*) must be in every part not less than ten feet in height, measured from the floor to the under side of the beam on which the roof rests;

(*b*) must have a clear superficial area of not less than eighty square feet; and

(*c*) must be provided, for purposes of ventilation, with doors or windows opening directly into the external air, or into a verandah, and having an aggregate opening of not less than one-fifth of the superficial area of that side or one of those sides of the room which faces or face an open space.'

"In that rule we propose to substitute the term 'domestic building' for 'dwelling-house.' It is quite clear that if an inhabited room is found inside a shop or in an office or in a stable, the regulations relating to inhabited rooms ought to

apply to it. Rule 22 of the same Schedule relates to the open space in rear of a house. It is quite clear that the rules about open spaces at the rear and sides of a dwelling-house ought to apply to every building in which people live. We know that in this town people do live in shops. It often happens that a man has a small house of which he uses the greater part as his shop, while he keeps a couple of rooms in which he lives and sleeps. That is the kind of case to which this rule is intended to apply. The next rule is 23, which is as follows:—

'If any person desires to erect a dwelling-house in a street laid out before the commencement of this Act upon a site which, before the commencement of this Act, was occupied by a dwelling-house, and the site is of such a nature that it is impracticable to provide an open space in the rear of the house of the dimensions prescribed by rule 22, the General Committee may relax the provisions of that rule:

'Provided that—

(a) such open space shall be left as the General Committee may consider practicable, having regard to all the circumstances of the case, and

(b) not more than two-thirds of the total area of the site shall be occupied by masonry buildings or verandahs.'

"Well, that provides for the relaxation of the provisions of rule 22 about open spaces at the back. I cannot imagine that the Hon'ble Member will have any possible objection to that."

The Hon'ble MR. BUCKLEY said:—"It is entirely in his favour."

The Hon'ble MR. BAKER said:—"Rule 24 is the next one. It is as follows:—

'(1) Except in localities where the erection of only detached buildings is allowed, if either side of a dwelling-house is not attached to the adjacent building, and if such side does not abut on an open square or the like which is dedicated to public use and is consequently not likely to be built upon, there must be between the house and such building an open space extending along the entire length of such side and belonging exclusively to the house.

'(2) The minimum distance across such space from every part of the house to the boundary line, or (if the boundary is a wall) the inner edge of the boundary wall, of the land or building immediately opposite such part, shall be—

(a) six feet, if there is a building next to such boundary line or wall, or

(b) four feet, if there is an open space of at least four feet on the other side of such boundary line or wall.'

[*Mr. Baker; Mr. Apcar; Babu Surendranath Banerjee; Mr. Oldham; Mr. Buckley.*]

"This is on all fours with rule 22. I think the remaining cases are in rules 26 and 29. Those are the only cases in which we propose to substitute the term 'domestic building' for 'dwelling-house,' and it is quite clear that these are not matters in which the objections of the Hon'ble Babu Surendranath Banerjee will have any force."

The Hon'ble MR. APCAR said:—"I have great sympathy with what the Hon'ble Member has said, but what I am afraid of is that the sections may lead to complications in the future. I think with the Hon'ble Member that the provisions for the sanitary condition of dwellings are very necessary. Sometimes it happens that there are persons living even in a temple, and there may be considerable difficulty arising in the operation of the law in such questions. If I could see my way to have a clear definition and a clear wording so as to get over the difficulty which my hon'ble friend Babu Surendranath Banerjee pointed out, I should certainly support the Hon'ble Mr. Buckley's amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am in strong sympathy with the Hon'ble Member who moved the amendment and with the Hon'ble Member in charge of the Bill with regard to sanitation, but I would like to make a suggestion which might put an end to the difficulty, namely, to insert the word 'inhabited' before the words 'masonry building'."

The Hon'ble MR. BAKER said:—"That would not be possible."

The Hon'ble MR. OLDHAM said:—"I should like to mention that Hindus are not the only people who have places of private worship in their houses. According to my friend, the Hon'ble Babu Surendranath Banerjee's description of them, these places of worship are essentially private, and I cannot see why, like private Catholic chapels, they should not be subject to the restrictions which are intended to provide for buildings of their nature."

The Hon'ble MR. BUCKLEY said:—"It was at the suggestion of the Hon'ble Babu Surendranath Banerjee that this motion was taken now instead of being taken, as the Hon'ble Mr. Baker suggested it should be, after the proposed amendments, which are to be introduced in Schedule XIVA (*now* XVII), had been considered. I think, had the Hon'ble Babu Surendranath Banerjee permitted the proposal of the Hon'ble Mr. Baker to be carried out, he would have seen

that the difficulties which he has raised are rather imaginary. As a matter of fact, I should personally not have the least objection to Hindu temples being excepted. I have no objection whatever to that, but I would point out to the Hon'ble Member that the alteration, if in some respects it is perhaps not altogether in accordance with his ideas, in two important respects is a direct concession to opinions which I know he holds. As regards what the Hon'ble Member said about there being no objection to kitchens or stables being excepted from the operation of the proposed rule, I would point out to him that there are many parts of the town—even in the European part of the town—where two stables are a short distance from each other, and those are sometimes insanitary places. It would not do at all to use the expression 'inhabited masonry building' as is suggested, because that would permit uninhabited masonry buildings as well as kitchens and stables being built at short distances apart, which would be extremely insanitary. With reference to temples, I believe it is commonly the case that the Priests and other Officers of the temple do live in them, and sanitary rules which apply to other inhabited buildings ought to apply to them."

The Hon'ble THE PRESIDENT said:—"Do you accept the suggestion that Hindu temples should be excluded?"

The Hon'ble MR. BUCKLEY said:—"I have no objection to Hindu temples being excepted."

The Hon'ble MR. BAKER said:—"It would be better to let the definition stand, and then, when we come to the Schedule, we may be able to make an alteration in the rules of the Schedule."

The Hon'ble MR. BOLTON said:—"I confess I should be better prepared to form an opinion on this amendment if further time were allowed for its consideration."

The Hon'ble THE PRESIDENT said:—"I think that is the best solution. We can consider this when we come to the Schedules."

The further consideration of this amendment was then postponed until Rule XIVA (now XVII), Part IV, had been dealt with.

The Hon'ble THE PRESIDENT said:—"The Hon'ble Raja Bahadur Ranajit Sinha of Nashipur is unfortunately ill and therefore unable to be present

[*The President; Raja Shashi Shakhareswar Roy, Bahadur, of Tahirpur; Mr. Baker; Babu Surendranath Banerjee.*]

to-day, but he has sent in a list of amendments which he proposes in regard to the Bill. I cannot find any rule in the Rules for the Conduct of Business regulating this particular matter; but I have no doubt the Council will accept my decision as President that the Hon'ble the Raja Bahadur, of Tahirpur, shall be allowed to move the amendments in his name."

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR, in the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, moved on behalf of the latter that the words "diphtheria, enteric fever and typhoid fever" be omitted from sub-clause (*a*) of clause (*12*) of section 3. He said:—

"This paper, containing a few amendments suggested by my friend, the Hon'ble Raja of Nashipur, who is ill, as is known to you, Sir, and therefore not in a position to attend the meeting to-day, has been placed in my hands with a request that I should move them on his behalf, so I beg to move that the words 'diphtheria, enteric fever and typhoid fever' be omitted from sub-clause (*a*) of clause 12 of section 3.

"I think I should add here that personally I am not in full sympathy with this amendment, because in my humble opinion these are certainly diseases which may be classed as dangerous."

The Hon'ble MR. BAKER said:—"I did not understand that this amendment would be brought on now, but I can explain why these particular diseases were mentioned in the definition. They are taken from the definition of dangerous diseases in the English Statute for the prevention of diseases; and if you refer to the definition given here, it will be seen that it is open to the Government, by a Notification in the Calcutta Gazette, to add any other epidemic or endemic or infectious disease to this list. Therefore, if there is any feeling that it would not be desirable to include such diseases as diphtheria, enteric fever and typhoid fever, I have not the least objection to accepting their omission, because it will be in the power of Government to insert them afterwards if it should at any time be found desirable."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think that these diseases should be included, and I may say as a late Member of the Corporation that we invited the Health Officer to the conferences that we held in

[*Babu Surendranath Banerjee; Babu Jatra Mohan Sen.*]

connection with this matter, and it was in accordance with the advice given to us by the Health Officer that we included these diseases."

The Motion was then put and lost.

SECTION 4.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 4, after word "and" the words "subject to the control of the Corporation" inserted. He said:—

"Section 4 proposes to enact how a question where a dispute as to whether a particular piece of land or cluster of huts is or is not a '*bustee*' or '*bustee* land' arises, should be decided, and the power has been given to the General Committee to decide those questions finally.

"'*Bustee*' and '*bustee* land' have been defined in the preceding section.

"The question whether or not a piece of land is or is not a '*bustee*' or '*bustee* land' is of very great importance to the owner.

"Various responsibilities and liabilities have been imposed upon him by this Bill. He is made liable to pay the consolidated rates payable by the occupiers of *bustee* land and huts—section 159 (*now* 180). Distress warrants will be issued against him in case of default. He is responsible for keeping the *bustee* clean —is liable to pay for any additional establishment the municipal authorities may maintain for cleansing it—and is liable to pay heavy fines if the *bustee* is not cleansed in accordance with notice issued by the Municipality. He has to bear the cost of preparing standard plans—section 419 (*now* 400). He is restrained from building huts on *bustees* until the standard plan is prepared and approved—he cannot alter the standard plan. He is required to construct drains, privies, streets and passages, and to carry out other improvements in old *bustees* in accordance with the standard plan so far as may be practicable.

"He has to make or pay for all improvements ordered by the General Committee on the report of the medical officer deputed under section 425 (*now* 406). He incurs heavy fines under various sections of the Bill.

"This being his position, it is natural that the owner would prefer to have the question finally decided by the Corporation. The elected Commissioners are expected to realise the inconveniences of the owners and to be cognisant of

[*Babu Jatra Mohan Sen; Mr. Baker.*]

all the incidents of *bustees* and *bustee* land. It is an essential element of the fair dealing out of justice that the party interested must be conscious that justice has been done, and that any reasonable apprehension that he has not got fair justice dealt out to him should be removed.

"It cannot be urged by the Hon'ble Member in charge of the Bill that the Corporation, if the body is formed under the newly revised Bill, is not sufficiently representative according to the Government view. That being so, there is no reason why the Corporation should not be trusted and why they should not be converted into a responsible body."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Jatra Mohan Sen has said that this question is one of great importance to the owner of a *bustee*. That may be, but the determination of the question whether a particular piece of land is *bustee* land, as defined in the Act, or not is a comparatively small question of executive detail, and it is contrary to the whole principles on which the Council and the Select Committee have acted to transfer any small question of detail to the decision of the Corporation. It is possible—in fact, it is probable—that to determine whether any particular piece of land is *bustee* land or not it might be necessary to make a local inquiry. It might often happen that a local inquiry would be the best way of determining it. Now, Sir, how could the Corporation, a body of 50, make a local inquiry? The practical effect of the amendment of the Hon'ble Member would be to give an appeal to the Corporation against a decision of the General Committee; and from first to last the Select Committee, and I may say this Council, have set their faces against conferring any appellate powers on the Corporation, for there is no sort of power the Corporation is less fitted to exercise than the power of appeal. Moreover, if the Hon'ble Member had referred to Chapter XXIII (*now* XXVI), which deals with *bustees*, he would have found that the Corporation has very little to do with matters affecting *bustees*. It has the power to sanction plans for the improvement of *bustees*, but with that exception it has no power whatever in any matter of detail. By section 417 (*now* 398), the first section of that Chapter, it is provided that the General Committee has the sole power to determine the external limits of a *bustee*. For these reasons, Sir, I think it would be absolutely inconsistent and improper to accept the amendment, which I therefore oppose."

[*Babu Surendranath Banerjee; Mr. Oldham.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am very much in sympathy with the amendment, and I must object to the passage in the speech of the Hon'ble Member in charge of the Bill in which he was pleased to say that this is a matter of Executive detail, and local inquiries might be necessary. If so, why not give this power to the Chairman? The Chairman, as the Head of the Executive, is most fitted to carry on Executive work, and local inquiries the Chairman would be the best person to conduct. If it is an Executive matter, and if local inquiries are to be held in connection with it, the General Committee will probably depute some local officer to make the inquiry; the Corporation might do the same thing. Then, Sir, when the Hon'ble Member in charge of the Bill was pleased to say that the Corporation was least fitted to exercise the powers of appeal, I must say that I was somewhat astonished at that remark, because if you turn over the sections of this Bill you will find that there are sections upon sections which confer an appellate authority on the Corporation. I think the Hon'ble Mr. Oldham sympathised with us in relieving the General Committee of the pressure of work which the Bill imposes upon that Committee. Having regard to the fact that the General Committee will be overweighted with work, and being so overweighted it is liable to make mistakes, it seems to me as a necessary safeguard that the power of appeal ought to be conferred upon the Corporation. I think the amendment ought to be accepted. A right of appeal is not a thing which everybody will make use of on every occasion, and the Corporation is not likely to be overburdened with work. It is only when something is done which calls for redress, and a man feels he has a grievance, that he will avail himself of the right of appeal to the Corporation."

The Hon'ble MR. OLDHAM said:—"The Hon'ble Babu Surendranath Banerjee has quoted me quite correctly, but I must point out to him that his quotation is not to the point in the present connection. I always agreed with the Hon'ble Member in charge of the Bill that the Corporation was the last body to be entrusted with appellate powers, and I do not see how it will lessen the work of the General Committee if there is to be an appeal from the General Committee to the Corporation. He also spoke about the Corporation holding local enquiries and about a General Committee holding enquiries. In my experience as Commissioner the Corporation has never held a local enquiry, but the General Committee has frequently held a local enquiry."

[*Mr. Apcar; Mr. Bolton; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. APCAR said:—"I do not myself follow the idea that the Corporation is to hold a local enquiry. An enquiry will have to be held, and the matter will have to be submitted to the Corporation. There is no difficulty in a matter such as that, but, when my hon'ble friends Mr. Baker and Mr. Oldham in chorus say that they cannot trust the Corporation with appellate powers, may I remind both of them what Sir Henry Harrison said: how much he valued the power that the Chairman had of appeal to the general body of Commissioners? I know my friends the Hon'ble Mr. Oldham and the Hon'ble Mr. Baker may make light of what Sir Henry Harrison said when it tells against any contention that they may be urging, but, at any rate, I know the manner in which Your Honour has spoken of the capacity and experience of Sir Henry Harrison. I therefore cannot agree with my friends that, so far as the Corporation is concerned, they are not capable of dealing with matters in appeal which come before them. The Corporation has exercised appellate powers in a way that has been commended by Sir Henry Harrison, and in a matter such as this I do not think it is asking too much for at least an appeal to be allowed to the Corporation."

The Hon'ble Mr. BOLTON said:—"I oppose this amendment for three reasons. First, the definition of *bustee* is simple and clear; secondly, a body of 12 competent men forming the General Committee may be trusted to interpret and apply that definition correctly; and thirdly, if you refer the question to a larger body, there will be more chance of discord. A matter of this kind should, I think, be left in the hands of the General Committee."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret I am unable to support this amendment; but I do not agree with the Hon'ble Member in charge of the Bill that the Corporation is the last body to be entrusted with the power of hearing appeals from the decisions of the General Committee. If he means to lay this down as a general proposition, I disagree with him, but I agree that this is the last instance in which such a power of appeal should be given. The word '*bustee*' and the words '*bustee* land' are defined in section 3. The matter seems to me to involve a very simple question of fact, and I am not prepared to believe that a decision upon a simple question of fact by 12 persons is likely to be less correct than a decision of that question by a larger

[*Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen; Mr. Buckley.*]

body of 50. If the decision of the question had involved a decision upon a question of principle I should certainly have been prepared to give an appeal from the decision of the General Committee."

The Hon'ble BABU JATRA MOHAN SEN in reply said:—"This amendment is objected to on the ground that a large body of 50 would not be able to make a local inquiry, and that this could be better done by a body of 12. I fail to see why that should be so.

"If, as was suggested by one of the Hon'ble Members, objection is taken on the score of the inconvenience of a large body of men deciding such a question, why not leave it to the Chairman alone? I could have well understood it if this matter was left entirely to the discretion of the Chairman. He is the chief Executive authority of the Corporation; but, with due deference to the opinions expressed by the dissentient members, I should contend that this appeal is very necessary. I might, however, change the wording of the amendment and put it thus: 'subject to an appeal to the Corporation' instead of 'subject to the control of the Corporation.' I need not add anything more to what my friends, the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Apcar, have said."

The Hon'ble MR. BUCKLEY said:—"There is one point in connection with this matter which I think has perhaps been overlooked by the Council. As a matter of fact, any question of this kind would, I take it, come in the first instance before the General Committee, for under the provisions of section 88 (*now* 95) of the Bill the General Committee can, and I hope very largely will, delegate certain of its powers and duties to Sub-Committees. There will unquestionably be a *Bustee* Sub-Committee, and the business of that *Bustee* Sub-Committee will be to deal with all details of this kind. I take it that the real intention of the mover of this amendment is that where any decision is given there should be some appeal. He will have, as a matter of fact, in almost all cases an appeal practically from the *Bustee* Sub-Committee to the General Committee, because all the doings of the *Bustee* Sub-Committee will be subject to the control of the General Committee. As a matter of fact, I believe that, under the London Building Act, such a matter as this would be dealt with in a far simpler way. In London there is a Superintending Architect who gives the preliminary decision, and curiously enough his decision is final, subject only to appeal to a

body which is called the Tribunal of Appeal. There is no power of appeal to any Committee or Sub-Committee or Corporation at all. There is a regular *quasi*-independent body called the Tribunal of Appeal which deals with technical matters of that kind. I think, therefore, to give a power of appeal to the Corporation in this case is quite unnecessary and out of the question."

The Motion was then put in the following form:—

"that in section 4, after the word 'and' the words 'subject to an appeal to the Corporation' be inserted",

and was lost.

SECTION 5.

The Hon'ble THE PRESIDENT ruled the following motions standing in the name of the Hon'ble Mr. Apcar, to be out of order:—

(*1*) that section 5 be omitted;

(*2*) if the last amendment be lost, that for section 5 be substituted "The entire Municipal Government of Calcutta shall vest in the Corporation."

The Hon'ble MR. BAKER said:—"With regard to motion No. 11 of the Hon'ble Babu Surendranath Banerjee that the words 'of the Corporation' in clause (*3*) of section 5 be omitted, in this case also the amendment is really dependent on the decision that may be come to on Nos. 16, 16, 25, 45 and 55,* and it would be convenient to discuss it along with those amendments. My reason for suggesting that it should be postponed is exactly the same as the reason for which I suggested the postponement of Nos. 3 and 10.†"

The Hon'ble THE PRESIDENT ruled the following motions, standing in the name of the Hon'ble Babu Surendranath Banerjee, to be out of order:—

(*1*) That the following proviso be added to section 5:—

"Provided that both the General Committee and the Chairman shall be responsible to the Corporation for the due and satisfactory performance of their duties under this Act."

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* Amendments Nos. 16, 18 and 25 are printed on pages 247 and 252, *post*.

Amendment No. 45 was a motion for the insertion in section 8 (*now* 9) of a clause requiring the General Committee to appoint a President of their body. Amendment No. 55 was a motion for the insertion in section 10 (*now* 11) of a clause requiring the Corporation to appoint a President of their body. Both these amendments were withdrawn at the meeting held on the 11th September, 1899.

† Amendments Nos. 3 and 10 are printed on page 247, *post*.

[*The President.*]

(*2*) If the last amendment be lost, that the following proviso be added to section 5:—

"Provided that it shall always be open to the Corporation, on a requisition made in that behalf by any five Commissioners, to consider any decision of the General Committee or the Chairman; and the orders of the Corporation upon such decision shall be final."

The Hon'ble THE PRESIDENT also ruled the following motion, standing in the name of the Hon'ble Babu Boikanta Nath Sen, to be out of order:—

That to section 5 the following proviso be added:—

"Provided that any decision of the General Committee or the Chairman may be considered by the Corporation, on a requisition made in that behalf by not less than six members of the Corporation; and the decision of the Corporation shall be final."

SECTIONS 6, 8 (*1*), (*2*), 43 (*3*), 46, 47, 49, 50 and 59 (*1*), AND SCHEDULE V, RULES 5 AND 6.

The Hon'ble THE PRESIDENT also ruled the following motion, standing in the name of the Hon'ble Babu Jatra Mohan Sen, to be out of order:—

That section 6, section 7, sub-section (*1*), section 34, sub-section (*3*), sections 37, 38, 40 and 41, section 52B, sub-section (*1*), and rules 5 and 6 of Schedule IVB, of the Bill as revised by the Select Committee in April last, be restored.*

NOMENCLATURE; POSITION OF CHAIRMAN (SECTIONS 5 AND 6).

The following notices of amendment, standing in the name of the Hon'ble Mr. Apcar, were then brought forward, namely:—

No. 3: that for the expressions "Chairman" and "Chairman of the Corporation," wherever they occur throughout the Bill, the expressions "Commissioner" and Municipal Commissioner" should respectively be substituted.

No. 4: that for the expression "Commissioner," wherever it occurs throughout the Bill, the expression "Councillor" be substituted.

No. 10: that in section 5, clause (*3*), for the words "a Chairman of the Corporation" the words "a Municipal Commissioner" be substituted.

No. 16: that in section 6 the words "the Chairman and" be omitted.

* *i.e.*, that the sections and rules mentioned should be substituted for the corresponding sections of the Bill as further revised by the Select Committee [*now* sections 6, 8 (*1*), (*2*), 43 (*3*), 46, 47, 49, 50 and 59 (*1*) and rules 5 and 6 of Schedule V].

[*Mr. Baker; the President; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER, speaking of amendment No. 16,* said:—"This amendment is identical with amendment No. 18, which stands in the name of the Hon'ble Babu Surendranath Banerjee, and I would suggest that these two amendments be discussed together."

The Hon'ble THE PRESIDENT said:—"Quite so."

The Hon'ble MR. BAKER said:—"I would further suggest that amendment No. 19†, which stands in the name of the Hon'ble Babu Surendranath Banerjee, and which is an alternative to his amendment No. 18, should similarly be taken and discussed together with the latter."

The Hon'ble THE PRESIDENT said:—"I think the proper procedure will be to take up tho discussion of amendment No. 16,* and, as the Hon'ble Babu Surendranath Banerjee's motion is identical with that of the Hon'ble Mr. Apcar's, whatever the conclusion of the Council may be upon amendment No. 16,* the Hon'ble Member will no doubt accept No. 18 without further argument."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I suppose there will be a discussion?"

The Hon'ble THE PRESIDENT said:—"Yes, upon amendment No. 16,* and whatever the conclusion may be upon that will apply to the Hon'ble Member's motion No. 18."

The Hon'ble Mr. BAKER said:—"I would suggest that Nos. 18 and 19† should be taken together, because they are alternative, and it would be convenient to have one discussion. Of course the amendments would be moved separately."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Amendment No. 19† is a different matter altogether. The one refers to the Bombay system and the other to the Calcutta system. The difference is as wide as between the arctic and the antarctic poles."

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* Printed on page 247, *ante*.

† Amendment No. 19 was "that the words 'the Vice-Chairman' be inserted after the word 'Chairman' in lines 1 and 2 of section 6." It is printed on page 283, *post*.

[*Mr. Apcar.*]

The Hon'ble MR. APCAR said:—"Since Your Honour has been graciously pleased to permit me to move the adoption of the amendment No. 16* which stands in my name, I shall take advantage of the opportunity to ask for its acceptance, although, with the indications before me, I confess I do not expect any measure of success.

"If I may be permitted to make a personal explanation, the ruling that now has been made has taken me completely by surprise. I have not seen anything in the rules or standing orders to lead me to think that it was possible that I might meet with such a ruling, and I have given my whole attention to certain matters, all of which now proves to be waste of labour. I would have been glad to have given my attention wholly to matters of detail in the Bill, and to put aside those relating to the constitution of the Corporation, if only I had entertained a suspicion of what in the result would be the fate of the amendments that have been disallowed. Sir Alexander Mackenzie, in closing the debate on the 6th March, 1898, when the Bill was referred to the Select Committee, said:—

'As I said last Saturday, the one feature in the Bill about which Government has made up its mind is the strengthening of the City Executive.'

"The proposals relating to the question mentioned by Sir Alexander Mackenzie are contained in section 23 (*now* 13) of the Bill. The ruling of to-day which has eliminated my amendments goes further, to a great extent, than was in the mind of the originator of the Bill. I suppose I must take it that I have misled myself, but I confess that I never suspected that there was room for any doubt upon the point, because in the proceedings connected with the Act of 1888—an Act which the Bill before us is intended to repeal—the report relating to which has been day after day under my observation, I have noticed how, when the object and purpose of the Bill was to amalgamate the suburbs with the administration of the town, amendments directly opposed to this principle, and expressly stated as intended to oppose this principle, were not only permitted to be moved, but in fact were discussed at some length in the Council. This may have been all wrong, but there is the precedent before us in a Bill affecting the Corportion. I confess I am very sorry to have so misled myself, particularly as the result is that many days of labour have been absolutely thrown away, which might have been utilised in other directions.

* Printed on page 247, *ante*.

[*Mr. Apcar.*]

"In approaching the task before me, while the impression created by the speech that closed the discussion in the first debate that I had the honour to attend, is still fresh in my mind, I feel how utterly unequal I am to emulate that gentle-tempered address which was so eminently calculated to put aside wrath. But, together with my admission of weakness and incapacity to employ soothing phrases, I would ask that allowance be made for me for the reason that mine is not the position of a ruler of a province, who speaks in this Legislature from the daïs, with the assured support of a body of voters on either hand. I am only a humble combatant, so to speak, struggling desperately against overwhelming odds, who has to suffer the rough and tumble of the contest, and I needs must use such efforts as I find necessary for my support. I have no desire to call a spade a spade in the sense in which such a phrase is used; but, paraphrase it how I may, it is a spade that I may have to describe, and I will be forced, in order to convey my meaning, to express myself as I best can in the controversy. I can only submit to a test as to the accuracy and truth of my statements, and as to whether the use of my facts is justifiable.

"Before I turn to this particular section, Sir, I am led by what transpired on a previous occasion to say that I trust my hon'ble friend in charge of the Bill will not jump up to interrupt me with the objection that I am attacking the Executive of the Municipality, and will not be inspired by any such fanciful idea. I disclaim any idea of attacking the Municipal Executive. If I wanted to attack the Municipal Executive, I would not come to the Bengal Council for the purpose. I could do so more effectually from my place in the Municipality. My hon'ble friend is aware that where I have thought it necessary I have not hesitated to do so. I repeat, my intention is to state facts in support of my contentions. If I am inaccurate, I shall be glad to be set right. But I cannot be stopped from making use of the reasons that I rely upon, because they happen to tell against the Municipal Executive.

"Now, Sir, there have been many ideas as to why the Municipality have failed, and we have many remedies proposed to remedy their shortcomings. But Government seem never to have thought of the idea that the system of appointing the Chairman is in fault, and that the remedy is the simple one of allowing the Corporation the choice of their own Chairman. I have long contended that it is not fair to blame the Corporation until you shall have given them the choice of electing their own Chairman; and this is the remedy I now

[*Mr. Apear.*]

mit to the Council. I go so far as to say that under the present system the Government are themselves responsible for the shortcomings of the Corporation, for they appoint the Chairman; they will have those only who will be under their power completely, and through their Chairman they generally can carry out any measure they may seriously be bent upon. The Chairman can do anything he wishes to do by appealing to the whole body of the Corporation. This has been proved again and again, and Sir Henry Harrison, as I have before shown, relied upon this very power of appeal. If a Chairman were to prove recalcitrant, he would be removed. I would remind the Hon'ble Mr. Bolton how some time ago the Corporation were not permitted to have an official of their choice, to whom they were willing to vote the full pay of the post; but a younger and less experienced Chairman was given to them. I will give another instance, that occurred at a very much later period, of a Chairman of their choice being refused to them, and it is a concrete instance showing that the Government will not permit any one who is not directly subordinate to them, and is not directly under their power and direction, to be the Chairman. I myself communicated to Sir Charles Elliott, when he was Lieutenant-Governor of this Province, the name of an official who was about to retire, and I represented to him what I have been saying to-day, that it was not fair to the Corporation to blame them unless they were allowed the choice of their own Chairman. On the day before Sir Charles Elliott left us, he informed me that he had made over the question to his successor, who would deal with it. I had before been told by a highly placed official that the Government would never consent to any person being Chairman who was not in active service under them, and it is so widely known now that it is no secret that this was the very reason why the gentleman to whom I refer was not appointed. Here was one who was highly approved by the European non-official community. I had ascertained that he would be welcomed by my native friends. We were willing to fix the salary at a sum that was acceptable to the candidate we supported, who himself was willing to become our Chairman. He was a man of energetic habits, of a practical turn of mind, in robust health and approved of by all. He had won his spurs in the service; he had been decorated by the Queen, and he had filled one of the highest posts in the Province. Nevertheless the Government would not appoint him. It could not be that they thought that he was broken in health and unfit to continue to

[*Mr. Apcar.*]

work in this country; because, after they refused to appoint him as Chairman, Government gave him an appointment in this country, and I am not sure that he is not still holding it. Then why would not Sir Alexander Mackenzie appoint so unexceptionable a person to be the Chairman? What other reason can be given but that the Government will not appoint any person who is independent of them?—that they will not permit any person to hold that position if he is not entirely dependent on them, and is not directly subject to their power and authority? By insisting on appointing a Chairman in their service the Government can control and direct the administration, and this they know. They will not trust one who has been trained in their service, but is not under their control. I do not think that it is a far-fetched idea that the Government are not free from responsibility with regard to the shortcomings of the Corporation.

"Again, one of the most mischievous influences under the present system has been the frequent changes in the office of Chairman. I have taken the trouble to draw up a table showing the changes in the office since Sir Henry Harrison left in the year 1890. I will read it to the Council:—

Mr. Lee ...	Appointed	16th April, 1890 ...	Left on privilege leave, 5th July, 1892.
" Ritchie ...	Officiated ...	6th July, 1892 ...	Acted until 24th September, 1892.
" Lee ...	Returned ...	25th September, 1892	Left on 6 months' furlough on 24th March, 1893.
" Ritchie ...	Officiated...	25th March, 1893 ...	Left on privilege leave, 31st March, 1895.
Vice-Chairman...	Ditto ...	16th October, 1894 ...	Acted until 4th November, 1894.
Mr. Ritchie ...	Confirmed	1st April, 1895 ...	Left on privilege leave on 18th April, 1896.
Vice-Chairman...	Officiated ...	21st September, 1895	Acted until 20th November, 1895.
Mr. Williams ...	Appointed	14th April, 1895 ...	Left on privilege leave on 31st August, 1896.
Vice-Chairman...	Officiated ...	1st September, 1896 ...	Acted until 28rd October, 1896.
Mr. Williams ...	Returned ...	24th October, 1896 ...	Went on leave on 18th May, 1897.
" Bright ...	Officiated ...	19th May, 1897 ...	Went on sick leave on 6th March, 1896.
" Greer ...	Ditto ...	7th March, 1898 ...	Acted until 23rd November, 1898.
" Bright ...	Returned ...	24th November, 1898	

"It is impossible for an administration to be carried on with any hope of satisfactory results, when the breaks in the continuity of service in the office of Chairman have occurred so frequently. A new Chairman coming fresh to duties of a novel nature has, in the nature of things, to learn the alphabet of his business. Before he has mastered it, he goes on leave, and his *locum tenens* has to begin the process afresh. When he returns he has to acquire knowledge of what has transpired in his absence and to re-learn what he has forgotten. All this while the administration has to go on with its own momentum. The Chairman coming new to his work is in the hands of the heads of departments, instead of supervising and controlling them. He is entirely ignorant

of the history of the questions that come up for decision, and I have no hesitation in saying that, if it were not for the working members of the General Committee, who have been old and experienced members of the Corporation, the administration could not have been carried on. In all these circumstances it is not surprising to find that when a new Chairman comes he upsets the policy of his predecessor. The administration must suffer when it has to be carried on in such adverse conditions. If there was an enquiry, it would be shown how often this kind of proceeding has happened. I can give some instances that occur to my mind. The last change in the office was when Mr. Greer acted for Mr. Bright. I have no wish to mention names, but I cannot help myself, in order to avoid confusion, since the changes have occurred with such frequency. The case I am about to give is one I already have mentioned, and is of a striking character, because it involved an expenditure of Rs. 60,000. Mr. Bright had rejected the scheme of the Engineer to get out pumping machinery at such a large cost without calling for tenders, and in consultation with the Government authorities had preferred another scheme. Mr. Bright went away on leave, Mr. Greer came into office, and almost immediately brought before the General Committee that very matter which Mr. Bright had already decided. The Commissioners, who were wholly ignorant of what had before been decidod, were invited by Mr. Bright's *locum tenens* to adopt a proposal that the permanent incumbent had considered and rejected. Then as to Mr. Bright and his predecessor. I will first take the question about the Loans Department. It is a question which forms the subject of one of Mr. Risley's charges. This is one of the offences in Mr. Risley's eyes which he has quoted to prove the Commissioners to be unfit for administering the affairs of Calcutta, because they did not accede to Mr. Williams' request to transfer the Loans Department, which is most excellently worked by the Municipality, to the Bank of Bengal. The Commissioners had protested that the transfer would impose needless expenditure and was uncalled for. The question had not been decided when Mr. Williams left us. If he had not gone away on leave, there is but little doubt that he would have succeeded in having his way. But he went on leave, and Mr. Bright came to act for him. One of the first acts of the latter was to declare that it would be inadvisable to make the transfer. I think that it was fortunate that Mr. Bright held this view; but whether he was right or wrong, the fact remains that the policy of the permanent incumbent was

upset. Again, we have been blamed by Mr. Risley with regard to the Warrant Department. This also forms one of the charges preferred against us by Mr. Risley. Let me explain. Our dues are collected by two Collectors who are remunerated by the allowance of commission on the collections made by each. Notices of demand are issued by the Collectors, and the Commissioners have thought that if warrants to realise the dues were allowed to be issued, before the expiry of the quarter, by the Collectors who are so much interested in the collections, there would be hardship, particularly as the debtors were entitled to the full quarter within which to pay. It has been the practice for the warrants, if necessary, to issue in the succeeding quarter. The preceding Chairmen had held a different view. Mr. Bright came into office, agreed with us in our objections, and intimated to the Government his support of the views held by the majority of the Commissioners. Here, again, right or wrong, there is a most pronounced disagreement from the policy of his predecessors, which also serves the useful purpose of answering Mr. Risley's charge."

The Hon'ble MR. BAKER said:—"I submit that the Hon'ble Member's motion is that the words 'the Chairman and' be omitted from section 6, and I cannot see that all this has any connection with it whatsoever."

The Hon'ble THE PRESIDENT said:—It will no doubt work itself out. Pray continue."

The Hon'ble MR. APCAR said:—"I have no wish at all to submit questions which are irrelevant. My desire is to exclude the head of the Executive who is appointed by the Government from being the Chairman of the Corporation, and I am submitting illustrations in support of my contention, one of my reasons being that continuity of administration is broken under the present system. The intention of the section is quite clear, and I am combating the purpose embodied in it."

The Hon'ble MR. BOLTON said:—"If the Hon'ble Member wishes the Chairman to be a mere figure-head, it does not matter whether the continuity is broken or not. He is not to be a working Chairman, but a figure-head as in Bombay."

The Hon'ble THE PRESIDENT:—"We have had no explanation yet. Pray proceed, Mr. Apcar."

[*Mr. Apcar.*]

The Hon'ble MR. APCAR said:—"In Bombay the Chairman holds a very responsible position, and is not a mere figure-head. He is not an independent authority, and he is not the head of the Executive.

"Then when I come to Mr. Ritchie's tenure of office, I come to a most interesting subject, and I am glad of the opportunity of dealing with it, because it forms one of Mr. Risley's most serious charges in his reply in the debate in April, 1898. I refer to *bustee* improvements. Mr. Risley stated that the Government had directed the expenditure of the annual sum of one-and-a-half lakh of rupees for *bustee* improvement, and presented a table of expenditure to show that sums far short of this amount had been spent in the years 1889 to 1896. Now Government had directed the expenditure of the sum named, not for *bustee* improvement only, but for both the cleansing and the structural improvement of *bustees*, and Mr. Risley, in his hurry to throw blame on the Commissioners in every conceivable way, only too delighted to have something to say against the Commissioners, charged them with neglecting their duties and disregarding the directions of the Government, in spending sums far short of the amount required under the letter of the Government. I have done my best to discover how much has been spent in *bustee* cleansing, but the system of accounts kept by the Executive has so far precluded discovery of this. But what is indisputably clear is that the expenditure that Mr. Risley so confidently relied upon to show that the Commissioners had failed in their duty was for structural improvement of *bustees* only, and did not include *bustee* cleansing, and what is also clear is that Mr. Risley had taken no pains to verify what he so confidently relied upon, and that even in *bustee* improvement a sum largely in excess of what Mr. Risley stated had been used. I will now place before the Council a letter from the Government of India, dated the 10th January, 1884, bearing the signature 'A. Mackenzie,' the Secretary in the Home Department at the time, and communicated to the Corporation by the Hon'ble Member now in charge of the Bill on behalf of the Local Government. The direction as to the amount to be expended was conveyed in this letter, and I ask the Council's special attention to the words of commendation used. In those days the Corporation were regarded to have done 'much excellent work.' Later, when

they were doing infinitely better work, they were condemned in unmeasured language. The material portions of the letter are as follows:—

'The many important matters with which the report deals have been fully reviewed in this Resolution, and no further orders from the Government of India are called for. The Governor General in Council is glad to acknowledge that much excellent work has been done by the Calcutta Municipality during the year. In respect of sanitary improvements, especially, the advance is very marked. * * * * All the remarks and suggestions contained in paragraph 17 of the Lieutenant-Governor's orders deserve their most careful attention. The sum of Rs. 1,50,000 per annum is the least sum which should, in the opinion of the Governor General in Council, be set apart for the cleansing and structural improvement of the *bustees*.'

"Now let us see what is Mr. Ritchie's letter to Mr. Risley himself, when Secretary to the Local Government only so late as in 1895. The letter is dated 13th April of that year:—

'The third topic to which I wish to refer is that of town and *bustee* improvement.

'In paragraph 5 of the Government of India letter, comment is made upon the small amount recently expended under the heads of town and *bustee* improvement. The Commissioners must be absolved from blame in this matter, as the financial situation of the Corporation has precluded me from recommending higher expenditure on new projects under these heads in the town proper. It must be borne in mind that the well-known Harrison Road, the construction of which marks an era in Calcutta street improvement and abolished many *bustees* and is essentially a measure of town and *bustee* improvement, has been financed during the seven years from 1889-90 to 1895-96. I would invite attention to the table on page 4 of the Administration Report showing the gross expenditure up to 31st March, 1895, annually incurred on this project, and to the statement of expenditure and receipts on page 12 bringing the account up to 1st September, 1895, which shows that the net cost of the project has been Rs. 27,37,000. Thus there has been an average gross expenditure of upwards of 8 lakhs annually, and an average net expenditure of nearly 4 lakhs annually on town and *bustee* improvement in respect of this road alone during the past seven years.

* * * * *

'I would take this opportunity of saying that in my opinion the advantages obtained by the Corporation under the system known as the *bustee* procedure are inadequate to the expenditure incurred. That procedure was fully described on pages 7 and 8 of the Resolution on the Administration Report for 1892-93, and it was stated in paragraph 18 that "*bustee* schemes resolve themselves into this: that the *bustee* property is improved at the expense of the Commissioners, the owners merely giving up to the use of the public the land required for the roads." * * * In some cases, as in Ram Bagan Lane and Sircar's Lane *bustees*, in Ward 6, the *bustee* huts are removed immediately on the roads being constructed, and *pucka* dwellings erected in their stead.

[*Mr. Apcar.*]

'I maintain that the preferable procedure is to acquire lands for substantial widths of roadway with surplus lands on the side to be resold at a profit, as has been done in the case of the Harrison Road in the town and the new roads in the Suburbs, namely, the Lansdowne Road, the Chetla Road and the new Kalighat Road now under construction. This procedure is simpler, it is freer from legal difficulties and the improvement effected is far greater. It is right to enforce the *bustee* procedure so far as it carried out the original intention of the Legislature * * * But when it comes to the Municipality spending large sums on the construction and sewering of streets of very narrow dimensions, a practice which is strongly condemned by sanitary authorities, I think that their funds are misapplied, and that Government should hesitate to press upon the Commissioners expenditure from Municipal funds on *bustee* improvement of this sort.'

"The letter I have quoted speaks for itself. I shall have to refer to the point in a subsequent stage of our proceedings, so that I shall not dwell on it any further now, except to say again that Mr. Risley does not think fit to explain that the Government included *bustee* cleansing in the expenditure of the sum that was mentioned. It will have been observed that Mr. Ritchie departed deliberately from the policy of his predecessors in regard to *bustee* improvement, and that he absolves the Commissioners from any blame in the matter.

"We next come to Mr. Lee, who succeeded Sir Henry Harrison, and again I can give an instance of a change from the plans of his predecessor—at least he failed to carry out an idea on which Sir Henry Harrison had laid some stress, and again I am able to refute another charge that Mr. Risley has brought. Sir Henry Harrison desired to institute a municipal *dhobikhana*; he obtained the sanction of the Commissioners for a Surveyor to go to Bombay, who was despatched and brought back plans, and the Commissioners sanctioned the necessary expenditure for the establishment of all that their Chairman asked for. At this juncture Sir Henry Harrison left the post, and his scheme was forgotten or laid aside by the Executive, and would not in all probability have been revived up to this day if it had not been for an elected Commissioner, who brought up the question I think in 1895, and the Commissioners again readily sanctioned the necessary expenditure, and a *dhobikhana* is to-day an accomplished fact. Here, again, we have another instance of Mr. Risley's extreme readiness to hurl charges against the Commissioners without verifying his facts and with no ground for his accusation. I have given only a few instances. Let the Government grant an enquiry, and many instances will be forthcoming, of the changes in consequence of the change in the office of Chairman, and also of schemes

falling through owing to the same cause, and also when Heads of Departments go away. These are the grounds on which I ask the Council to consider the advisability of trying a change in the system of appointing the Chairman. Allow the Corporation to elect their own Chairman, and they will be able to make their own terms. And better still, and what would secure a continuity in the work of the administration, allow them to elect from their own body. When the Corporation have the control of their own business, they would elect from their own body a Chairman who would be intimately acquainted with the working of the administration and the history of questions. He would be well aware of the schemes on foot, and they would not lapse in the way that there is a tendency to do in the present system. When the Corporation will elect from their own body, it will be the Corporation who will be carrying their business forward, and they would be more likely to do so in a continuous manner. If there was a change, it would not be owing to the want of knowledge of an inexperienced Chairman of what had gone before, but it would be deliberately done after consideration of the subject. Again, Sir, can it be denied that no one is placed at the head of a business until he has served an apprenticeship in it? Sir Alexander Mackenzie, in his speech at Entally, said that even if an angel came from heaven, he could not perform the duties of Chairman satisfactorily. I have no knowledge of angels from heaven, but would any business man go to the Civil Service for a manager of his business? It would be presumptuous on my part to attempt to eulogise that service. Viceroys and statesmen of the highest rank have spoken of them in terms of well-merited praise, and I could not, even if I desired, which I do not, depreciate them. But their training and education do not fit them to take charge of a difficult and complex business like the administration of a popular and self-governing institution such as the Corporation of Calcutta. I would ask the Hon'ble Member for the Chamber if he would go to the Civil Service for a manager of a tea garden? He would as little like to see tea from that garden inside his cup as outside of it, if it were so managed. He would as little like to drink the tea manufactured from that garden as he would expect to see a dividend from tea manufactured there. Would any bank, any shipping or export or import firm go to the depths of the mufassal for a manager of any of their businesses? They surely would not do so. Then, why should it be expected that the only fit person to be the head

of the difficult business of municipal administration is a junior member of the Civil Service, however promising he may be in his own line of official life? The task is too severe for any such officer, and the choice is not fair to the public. The plan I am submitting would not in any degree interfere with the functions of the head of the Executive. He still would be the head of the Executive, with the Executive authority assigned to him untouched. He would then be in the position that would be most appropriate and suitable for him; for, deny it how we may, and in this Council I do not expect concurrence with me, official Chairmen with their training come to us invariably with their minds imbued with certain principles of office that they never lose, and so there is no independent judgment with regard to whatever may be done by the Executive who are placed subordinate to them. Supervision fails; criticism is, I may say, deprecated. Take an instance to illustrate my meaning, and it indicates the habits of thought that prevail. The Engineer, without the sanction or even knowledge of the Corporation, started most expensive and costly drainage works, with regard to which the Government sanction had under the law to be obtained, but which in the system under which wo have been working had not been obtained, and this apparently has not been considered a serious matter by the Chairman. It is incredible that these things should be, but I am stating facts, and it is extraordinary the latitude that has been allowed to the Engineer by the Chairman. These circumstances show a grave condition enough, but what I particularly now desire to point attention is an aspect of the question to show how the official mind regards questions at are brought up for discussion. Immediately I discovered that a new ainage scheme bad been started, one of the first questions I raised was as to alignment of one of the main drains. I by no means asserted that I was rrect in my view, or that a better alignment than the one proposed by the Engineer could be found, but I was desirous that my proposal should be considered. The Engineer met me with the short assertion that my suggestion was simply impracticable. The reasons he gave, I believed, from his own old plans for the drainage scheme, could not be maintained, and I pressed that my suggestion should at least be considered by the General Committee. The Hon'ble Mr. Oldham then threw up his hands and eyes, and exclaimed How could we possibly go against the views of our official adviser. I pressed for consideration of my suggestion, and the Engineer then met me with a

counter proposal that the question should be submitted to the Hon'ble Mr. Buckley, who is the adviser to the Local Government in Engineering questions. I only wanted that my proposal should be considered, and I readily agreed. The reply we received from the Government was in the nature of a snub; we were told to attend to the advice of our official adviser. Fortunately, at this period, our Engineer left, at the expiry of the term of his agreement with us. The Government lent to us one of their officers to carry on the work in the interval before a successor could be appointed. I again asked for my suggestion to be considered, and this officer frankly admitted that he could not say that it was impracticable. When our new Engineer arrived, he at once took up my suggestion. He thanked me for making it, and adopted it as being the preferable alignment, since it was the more economical, easier worked, and better and more practicable in every way. We are told that more motive power is wanted among the Commissioners. Why, the official Executive resent our intervention and try to block us if they can. This is not an enquiry, many instances could be discovered, but I have given two instances of this already in the course of the debates. I was unable for many years, as I have before described, to carry through the scheme of improvement relating to the opening out of a new road to Kalighat. And I have mentioned how the Local Government have not condescended even to reply to our letter asking that steps be taken to carry out the recommendations of their own Building Commission for opening out the congested parts of the town. I now have given, I think, sufficient reasons for a change in the system of appointing the head of the Executive to be the Chairman of the Corporation. If the Government so desire it, let the choice be limited to a member of their service; but allow the Corporation their choice and let not the head of the Executive be *ex officio* Chairman of the Corporation."

The Hon'ble MR. BAKER said:—"I do not propose to follow the Hon'ble Member through the large mass of entirely irrelevant details with which he has favoured us. It seems to me, Sir, that not less than four-fifths of the time occupied by the Hon'ble Member was spent in dealing with matters which, in my humble judgment, have no connection whatever with the amendments now before the Council. But there are two matters with which he dealt to which I will briefly refer. He was pleased to be very sarcastic at the expense of the Civilian Chairman of the Corporation, and he stated very plainly that he would

prefer that the Corporation should have a free hand to choose their Chairman from outside the ranks of that service. Sir, if the Hon'ble Member would look forward to section 10 (*now* section 11) of the Bill, he would find it provides that the Local Government may appoint *any fit person* to be Chairman. There is not one word from first to last in this Bill to show that the Local Government is restricted in its choice of the Chairman either to the Civil Service or to the Bar or to the Public Works Department, or to any branch of its own service whatsoever. Then, Sir, he said a good deal about the want of continuity in the office of Chairman, and he said that if we had in Calcutta a system, which I understand he means to be that of Bombay, that there would be no such breach of continuity; at all events that the breaches of continuity would be less frequent. He proposes, I understand, that there should be a head of the Executive in Calcutta corresponding to the official who is known in Bombay as Municipal Commissioner, and that the Corporation should appoint their President, I presume in the same way as the Bombay Corporation appoints its President. The Hon'ble Mr. Bolton intervened to point out in a very proper way that in Bombay the President is only a figure-head. He is not a real working officer at all, and therefore, it is of no importance one way or the other whether there is continuity in his appointment or not. But, as a matter of fact, the breaches of continuity in the office of President of the Bombay Corporation are infinitely greater than the breaches of continuity in Calcutta, for, if the Hon'ble Member refers to the Bombay Act, he will find that a fresh President has to be chosen every year. If the President resigns or retires during the course of the year, or dies, then another President has to be chosen for the remainder of that period. If he were to look through the records of the Bombay Corporation, he would find that for every breach in the continuity of the appointment here, there are not less than two in Bombay.

"But, Sir, all this is by the way. I should now like to deal fully with what I understand to be the real proposal of the Hon'ble Member. The proposal is in part incorporated in his amendments Nos. 3, 4 and 10,* which by arrangement are to be taken along with this amendment."

The Hon'ble Mr. Apcar said:—"I beg my hon'ble friend's pardon. I did not object to these amendments coming after the amendment I have moved, and I have not touched on them. I, however, am quite willing that they should be taken up at any time."

* Printed on page 247, *ante*.

[*The President; Mr. Apcar; Mr. Baker; Mr. Bolton; Babu Surendranath Banerjee.*]

The Hon'ble THE PRESIDENT said:—"I did understand that the Hon'ble Member would in his speech upon the item which weare now discussing disclose the whole of his own particular scheme, but I may have been mistaken. If he will explain in detail and completely all that he wishes to impress upon the Council in regard to these several motions, I think the Council would prefer that the whole and complete statement of the Hon'ble Member's scheme should be before it in deciding on that scheme in votes on individual items of the programme."

The Hon'ble MR. APCAR said:—"I should be glad to fall in with any wish Your Honour may express, but those matters are distinct from what I have got to say with regard to amendments Nos. 3, 4 and 10*."

The Hon'ble MR. BAKER said:—"I would prefer that the Hon'ble Member should deal with amendments Nos. 3, 4 and 10*."

The Hon'ble MR. BOLTON said:—"These amendments hang together. It is perfectly clear that the Hon'ble Member's object is to introduce the Bombay system into Calcutta. Let him, therefore, place his whole scheme before the Council."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have got some amendments also; at any rate one of these amendments has nothing to do with the scheme which my friend the Hon'ble Mr. Apcar has laid before the Council."

The Hon'ble THE PRESIDENT said:—"It is a great disadvantage to the Council that we have to discuss and consider these things in what I might call a jerky fashion, to move from point to point without clear ideas of what it is the Hon'ble Member wish to impress upon the Council. I think it would be an advantage if the Hon'ble Member would now disclose the whole of his scheme, and then we can vote upon individual items."

The Hon'ble MR. APCAR said:—"The Hon'ble Members treat the question as if they know more than I myself do as to my meaning in moving the previous amendments that stand in my name. I have got no scheme that involves those

* Printed on page 247, *ante*.

[*Mr. Apcar; Mr. Baker; the President.*]

ther points. With regard to amendment No. 3*, I ask that all through in this Bill wherever the expressions 'Chairman' and 'Chairman of the Corporation' occur the expressions 'Commissioner' and 'Municipal Commissioner' be respectively substituted. He may be termed Municipal Commissioner; still he would be none the less qualified to be Chairman, if the Council so determine. I think myself that the expression 'Chairman of the Corporation' is an appropriate term under the present Act, for this reason: he is a member of the Corporation with other members, all of whom have got Executive functions. He is head of the Executive, it is true, and he has got in practice wider powers as head of the Executive than even under the present Bill is permitted him, but his distinctive character in the Corporation, as it now exists, is that he is Chairman of the Corporation; so that when you call him Chairman of the Corporation you define him at once. Here, so far as the scheme of this Bill is concerned, he is to be the head of the Executive as an independent co-ordinate authority. There is no reason why he should be called Chairman of the Corporation any more than that he should be called President of the General Committee. If he is called Chairman of the Corporation it does not distinguish his functions in any way. The designation only would refer to that which is the least portion of his duties. As President of the General Committee, he has got many more difficult and more important duties. Why then not call him President of the General Committee? And, therefore, in these circumstances, it seems to me the more appropriate designation would be 'Municipal Commissioner'."

The Hon'ble MR. BAKER said:—"It was arranged in the beginning that these amendments Nos. 3, 4 and 10,* which are a matter of nomenclature, should stand over until we came to the substantive amendment on which they depended. You suggested, Sir, that the Hon'ble Member should disclose his whole case, but, as I understand him, he is not doing so. He is simply treating those three amendments as if they were still pure matters of nomenclature and as if we had not yet come to the substantive amendment."

The Hon'ble THE PRESIDENT said:—"Meanwhile, we are only talking about designations."

The Hon'ble MR. APCAR said:—"I wish to meet the wishes of the Hon'ble Member, and I do not mean, I may inform him, to make any insidious attempt

* Printed on page 247, *ante*.

to get round any particular section by anticipating discussion. I have been simply trying to do what I have thought the Hon'ble Member himself desired. With regard to the term 'Councillor' I say, since the members of the Corporation have no Executive duties, and it is a term that is applied in Bombay, and is a recognised term to describe members of municipal administrations, it seems to me that it would be more appropriate under this Act to call them Councillors, and then when I come to the third amendment, No. 10,* to call those three, the Corporation, the General Committee, and the Chairman of the Corporation co-ordinate authorities, seems to me to be a contradiction in terms, for immediately you call one of the three Chairman of the Corporation, the co-ordinate aspect is gone. I repeat, Sir, if the Legislature is desirous of maintaining the head of the Executive as Chairman, it seems to me a more appropriate term that when we talk about three co-ordinate authorities, instead of calling him 'Chairman of the Corporation,' he should be distinguished 'the Municipal Commissioner.' The designation 'Commissioner' is given to officers of Government who perform Executive duties, and I am only carrying out this idea in proposing that the head of the Municipal Executive should be called Municipal Commissioner."

The Hon'ble MR. BAKER said:—"I submit that Your Honour's directions were that it would be convenient to the Council if the Hon'ble Member stated his whole scheme. Now it is quite plain that he has not done so. His actual scheme, as I understand it, is embodied in the amendments which are numbered 16,* 25, 26,† 39 and 53.‡ I am prepared to reply upon those if the Hon'ble Member will state his scheme, otherwise it does not appear to me that I have anything to reply to."

The Hon'ble MR. BOLTON said:—"That the Hon'ble Member has a scheme is evident from his amendments 25 and 26,† and I find in the margin of these amendments that he quotes the Bombay Act. He proposes to have a President as in Bombay, and he also proposes that the Commissioner shall occupy the same position as that officer in Bombay. I assume, therefore, that he desires to ask the Council to introduce the Bombay scheme."

The Hon'ble MR. APCAR said:—"I have been called upon to move a certain amendment, and I am doing so."

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* Printed on page 247, *ante*.

† Amendments Nos. 25 and 26 are printed on pages 282 and 283, respectively, *post*.

‡ For amendments Nos. 39 and 53, see the last footnote on page 232, *ante*.

[*Mr. Baker; Mr. Apcar; Babu Surendranath Banerjee; the President.*]

The Hon'ble MR. BAKER said:—"I think it might be better to treat the amendments Nos 3, 4 and 10* as if they were a question of principle, and let the vote of the Council be taken upon them. If the vote of the Council is adverse to the Hon'ble Member on these three amendments, a number of the later amendments must be ruled out of order."

The Hon'ble MR. APCAR said:—"I can only say that it has never occurred to me to put those forward as amendments in which any principle is involved, otherwise I should have been open to the charge that I find is still lurking in my hon'ble friend's mind, and I regret to find that he cannot get rid of, that it was an insidious attempt to anticipate future discussion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I be permitted to say a word, and it is this:—If amendment No. 16* and the other amendments which hang together are put and lost *ipso facto*, the preliminary amendments will be lost."

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member (Mr. Apcar) must surely see that the whole Council is waiting with interest and anxiety to know what it is that he wants us to do. The change of names, or the alteration of the nomenclature, of the officials of the Municipality, is a very small and insignificant matter, but it is quite apparent from the subsequent amendments, which the Hon'ble Member is going to move, that they are really part and parcel of a large and important scheme; and, until we know what that large and important scheme is, it seems to me useless to dispose of preliminary questions of this kind. The idea that I had, and that I venture to think the Council had, was that when we did come to discuss one important point of principle, as to whether the Chairman should or should not be a member of the constitution of the Corporation, we should then have a definite statement from the Hon'ble Member as to what the scheme was that he proposed to substitute for that in the Bill. If the Hon'ble Member chooses again to postpone his amendment No. 16,* as well as those which have preceded it, until we come to the question of principle in amendment No. 25,† I am perfectly prepared to agree to that adjustment, but what I want to impress upon him is that the first thing to be done is to have the whole of his particular proposal exposed and disclosed to us. Until we have that and we know what it is that he wants of us, the disposal of these preliminary matters is of no value whatsoever."

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* Printed on page 247, *ante*.

† Printed on page 282, *post*.

[*Mr. Apcar; the President; Mr. Baker.*]

The Hon'ble MR. APCAR said:—"I certainly do not accept the Hon'ble Babu Surendranath Banerjee's ideas as correct. I again repeat that there is absolutely no principle involved in amendments Nos. 3, 4 and 10.* Surely my disclaimer ought to be accepted. I have never intended that any principle shall be involved, and even if they are passed in their entirety, the section as amended will not affect my further amendments. My argument is that if you pass these amendments hereafter, and let the Bill stand as it does, the term 'Chairman of the Corporation' does not describe the functions of the head of the Executive."

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member will understand that I and the whole Council are anxious to assist him. Our object is not to dispose of preliminary items without understanding what it is the Hon'ble Member has at the back of them. If the Hon'ble Member prefers that we should vote upon this as his scheme, I am quite prepared to put these particular items to the votes of the Council."

The Hon'ble MR. APCAR said:—"I submit the burden does not lie on me. If amendment 25† is not called on for discussion, how can I bring it forward? I think that amendments Nos. 3, 4 and 10* can be put now and disposed of. It does not in any way affect amendment No. 16.*"

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member is a judge of his own case. I leave it to him."

The Hon'ble MR. APCAR said:—"I repeat that I have no intention in any way of anticipating the result of any discussion with regard to amendments Nos. 16* and 25†. I repeat that my proposals do not affect, in my view, these other sections. It is merely for the purpose of providing whether the head of the Executive is hereafter to be called 'Chairman of the Corporation' or 'Municipal Commissioner'."

The Hon'ble MR. BAKER said:—"I am not quite sure, Sir, what has been the decision. Are we to speak upon Nos. 16* and 25†?"

The Hon'ble THE PRESIDENT said:—"No, not on amendment No. 25†."

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* Printed on page 247, *ante*.

† Printed on page 2[illegible]2, *post*.

[*Mr. Apcar; Mr. Baker; the President; Babu Surendranath Banerjee.*]

The Hon'ble MR. APCAR said:—"I am quite prepared to postpone amendment No. 16*, and take it with amendment No. 25†. Amendments Nos. 3, 4, and 10* are distinct."

The Hon'ble MR. BAKER said:—"If the Hon'ble Member would take Nos. 16* and 25† together, and let them be discussed and voted on, then after that decision, Nos. 3, 4 and 10* might be voted on."

The Hon'ble THE PRESIDENT said:—"I do not wish to incommode the Hon ble Member in any way, and it is now for him to say whether he would like the votes of the Council taken at once on amendments Nos. 3, 4 and 10*, or whether he would like to speak upon the principle in amendments Nos. 16* and 25†."

The Hon'ble MR. APCAR said:—"My view is this: that the votes on amendments Nos. 3, 4 and 10* should be taken now and disposed of."

The Hon'ble THE PRESIDENT said:—"Has the Hon'ble Member anything further to say upon amendments Nos. 3, 4 and 10*?"

The Hon'ble MR. APCAR said:—"I have said all that I have to say."

The Hon'ble MR. BAKER said:—"The new designations proposed by the Hon'ble Mr. Apcar may be suitable to tho Bombay system, but they are distinctly not suitable to the system which it is proposed in the Bill to retain and develop in Calcutta."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"With Your Honour's permission, I would like to say a few words in reply to the observations of the Hon'ble Mr. Baker to the effect that we are having the Bombay system introduced and ingrafted upon our system. Some salient features of that system have been incorporated in our system. That being so, it seems to me a distinct advantage that we should borrow the nomenclature of the Bombay system. It seems to me also that as regards item 10*, the amendment that is suggested there is an amendment which does not only involve a question of nomenclature, but it goes much further than that—it is an amendment which involves a question of principle. My friend the Hon'ble Mr. Apcar will move, if the last amendment be lost, that for the words 'a Chairman of the Corporation,' the words 'a Municipal Commissioner' be substituted. 'Chairman of the Corporation' would be used in the way

* Printed on page 247, *ante*.

† Printed on page 282, *post*.

[*Babu Surendranath Banerjee ; Mr. Bolton.*]

that expression is understood at the present moment—the President of the Corporation. And there we join issue with the Hon'ble Member in charge of the Bill. The whole of our contention is, at the present moment, pending the decision of the Council, that the President of the Corporation should be an individual different from the head of the Executive of the Corporation, and, therefore, if you say 'Chairman of the Corporation' you pledge yourself, you commit yourself to the principle that the head of the Executive is also to be the President of the Corporation. I do not think, Sir, we have arrived as yet at that stage in the discussion where you are in a position to accept that as a definite principle; and I have serious objection to this Council accepting by anticipation a nomenclature which might bind the Council to a principle in regard to which the vote of the Council has not yet been obtained. If you say that he shall be the Chairman, you mean that he is to be the President of the Corporation. We have not yet decided as to whether he shall be President of the Corporation. That is a matter yet to be determined, and many of us have got something to say with regard to it. The Hon'ble Mr. Mackenzie has got a long speech, and I want to hear others. I vote for my hon'ble friend's amendment, and I repeat if yon have the Bombay system, let us have it in its entirety. It is much better to have the genuine article than a hybrid—something between the two is entirely repugnant to my views."

The Hon'ble MR. BOLTON said:—"The Hon'ble Mr. Apcar wishes our Chairman to be designated 'Commissioner' and our Commissioners 'Councillors,' and he protests that his proposal is unconnected with his later amendments. If so, what is the necessity for the change? Why should the name of Chairman of the Corporation, which has been used for thirty or forty years, be now altered? I am unable, however, to accept the view that no special meaning attaches to the present amendments, because the new designation of the Chairman is subsequently introduced in amendments which go to make material alterations in the constitution of the Corporation as set out in the Bill, that is, amendments Nos. 25 and 26.* We are to substitute for the Chairman a President, and a 'Commissioner' is to be introduced in Calcutta corresponding to the Executive Commissioner of Bombay. As the Hon'ble Member, however, desires his amendments to be treated as a mere question of nomenclature, I will record my vote against them, on the ground that no reason whatever exists for the proposed change."

* Printed on pages 262 and 263, respectively, *post*.

[*Mr. Apcar; the President; Mr. Baker; Mr. Oldham.*]

The Hon'ble MR. APCAR said:—"The Hon'ble Mr. Bolton has said that the thing has continued so long, therefore let it continue, but I wish him to understand that things are to be different: what there has been before is not to be in the future: there is going to be a distinct change in the Bill, and I say it would be more appropriate to call the Chairman 'Municipal Commissioner'; and, considering that we have got three co-ordinate authorities, they should be separate and distinct. That is my contention, and I repeat that, so far as I am concerned, my intention is not in any degree to anticipate the decision of amendments Nos. 16* and 25†."

The amendments Nos. 3, 4, and 10* were then severally put and lost.

The Hon'ble MR. APCAR then formally moved amendment No. 16, *namely*, that in section 6 the words "the Chairman and" be omitted.

The Hon'ble THE PRESIDENT said:—"Has the Hon'ble Member in charge of the Bill got anything to say about amendments Nos. 16* and 25†?"

The Hon'ble MR. BAKER said:—"I understood the arrangement was that the Hon'ble Mr. Apcar would now deal with amendments Nos. 16* and 25† together. I shall reserve what I have to say until we come to amendment No 25.†"

The Hon'ble MR. OLDHAM said:—"I should like to say a few words in reply to the Hon'ble Mr. Apcar. He began as well as I remember by saying that he would call a spade a spade, but I really think he has called the spade something like a twenty-thousand horse-power excavator. I must deprecate the exaggeration which has been used in his speech. Referring to the Chairman, I have taken down the following passages: 'The Chairman can do anything in the Corporation; he can alter his predecessor's policy; each change is followed by a complete reversal.' I do not believe that any member of the Corporation will seriously endorse any of these expressions. Mr. Greer was particularly referred to by the Hon'ble Mr. Apcar. I was in the most intimate association with Mr. Greer during the whole time that he conducted that office, and I was repeatedly consulted by him. I know there was a little difficulty about the Rs. 60,000 which was referred to by Mr. Apcar. It was a pure oversight and was the fault of Mr. Greer's office; otherwise, I can vouch

* Printed on page 267, *ante*.
† Printed on page 281, *post*.

for the fact that Mr. Greer's constant policy was to take the Commissioner into his complete confidence and to wait on the Commissioners before carrying out any single thing. I remember that on one occasion Mr. Greer visited a slaughter-house or gowkhana. He was very much dissatisfied with the state of it, and he passed an emergent order. I remember he was seriously taken to task by the Commissioners for exceeding his authority in ordering change involving considerable expenditure for which there had been no provision and without first consulting his colleagues, and I venture to say that Mr. Greer never made a mistake of a similar sort again. Before he left them he had earned the approbation as well as the affection of the Commissioners."

The Hon'ble MR. MACKENZIE said:—"The Hon'ble Mr. Apcar made a reference to me in his speech and referred to the management of tea-gardens and tea-cups. I shall not endeavour to follow him in these matters; but in regard to his amendment, I oppose the motion that the Chairman should not be a member of the Corporation and should not preside at meetings: he should occupy a similar position to that of the Municipal Commissioner in Bombay.

"In my opinion the Chairman ought to occupy the position of a Managing Director of a commercial concern, and should invariably be a member of the General Committee, which corresponds to a Board of Directors, and he should always preside. Any other arrangement would lead to waste of time, to loss of power, and possibly to friction."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My hon'ble friend in charge of the Bill began his observations by deprecating the irrelevant remarks which Mr. Apcar made in connection with this Bill. I am sorry to have to say that if Mr. Apcar's criticisms were irrelevant, the criticisms of my hon'ble friend in charge of the Bill are exposed to the same objection. I think Sir, we have been drifting away very considerably from the position which the amendment opens out. The whole question at issue is this: whether the Chairman is to be a member of the Corporation or not: Is he to be one of the deliberative body known as the Corporation, or is he to stand outside the Corporation? And in discussing this simple issue we are led to the other question as to the election of the Chairman; and here again, Sir, the spectre of confusion seems to haunt us. There was considerable confusion in the blending up of the two offices: the 'Chairman of the Calcutta Corporation' and the 'Municipal

Commissioner of Bombay.' Sir, the Hon'ble Member in charge of the Bill made the remark that if the Chairman of the Calcutta Corporation is changed very often, the President of the Bombay Corporation is changed also very often. As a matter of fact, the two things are totally different. The Chairman of the Calcutta Corporation holds a position very different from that of the President of the Bombay Corporation. The President of the Bombay Corporation may be a figure-head, but he is a very brilliant and distinguished figure-head. He is pre-eminently the first citizen of the first city in the Indian Empire. He receives the Viceroy when the Viceroy lands in India; he bids adieu to the Viceroy when the Viceroy leaves India. He may indeed be a figure-head. I am sure the Hon'ble Mr. Mackenzie would like to be a figure-head of that description. The President of the Bombay Corporation is a figure-head in this sense, but at the same time he performs important functions. He is the guide, the preceptor, and leader of the Corporation; he presides at the meetings of the Corporation; he regulates the proceedings; he has a casting vote in case of equality of votes. To compare him with the Executive head of the Calcutta Corporation, my friend will permit me to say, is a comparison which will not stand the test of scrutiny."

The Hon'ble MR. BAKER said:—"That is the very comparison which the Hon'ble Member the mover of the amendment made."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"What I wanted to say in this connection is this: that this is the first of a series of amendments in regard to which my hon'ble friend Mr. Apcar and myself have given notice. The object is to incorporate, so far as we can incorporate, the Bombay system into the Calcutta system. We have suggested that the Chairman shall not be the President of the Corporation; we begin by saying that he shall not be a member of the Corporation. Having said that he is not to be a member of the Corporation, we provide later on that the Corporation is to elect its own President; in other words, he is not in any way to be connected with the Corporation as a member or as President. We have heard a great deal about this Bombay system. The essence of the Bombay system is this: the complete separation of the deliberative from the executive body. The executive body stands apart from the deliberative body, and the deliberative body when it comes in contact with the executive body promptly brings it into

a position of subordination. On the other hand, the essence of our system is the complete assimilation, the blending up of the two. Therefore, the object of amendment 25* on the paper is, so far as practicable, to assimilate the Calcutta system to the Bombay system. Therefore, the first amendment, proceeding on these lines, is that the 'Chairman shall not be a member of the Corporation.' If you accept that proposition, we say that the Corporation shall elect its own President, and that further the General Committee shall elect its own President, and if we accept those amendments, we have that complete separation of the executive and deliberative bodies which is the essence of the Bombay system. In the Bombay Act there is a section which enables the Corporation to call for any statement regarding the affairs of the Municipality and pass Resolutions with regard to any such statement; in other words, the power of criticism, the power of supervision extending over the entire domain of municipal administration, is given to the Corporation. They have co-ordinate authorities, but separate and distinct from each other. Have you got anything approaching that here? And it is, because, Sir, we have not got here that safeguard, that my hon'ble friend Mr. Apcar and I have thought it our duty to suggest the acceptance of those provisions of the Bombay Act which will ensure to the Corporation here that supremacy which the Bombay Corporation enjoys, and which has made that Corporation the success that it is. Therefore, Sir, in all earnestness, with all the emphasis that I can command as one whose life has been passed in the cause of Local Self-Government, I beg Your Honour to consider whether it is not desirable, in the interests of that Local Self-Government which this Council is apparently anxious to maintain, that we should assimilate our system to those portions of the Bombay system which alone can conduce to its sound and efficient working."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee has discussed the very questions of principle into which the hon'ble mover of the amendment refused to enter. I therefore ask permission to reply to him."

The Hon'ble THE PRESIDENT said:—"I have particularly asked the Hon'ble Mr. Apcar whether he wished a discussion upon the entire scheme to take place now in the discussion upon the motion which stands as No. 16,† or whether the question of principle should be deferred until we come to motion No. 25.*

* Printed on page 282, *post*.

† Printed on page 247, *ante*.

[*The President; Mr. Apcar; Mr. Baker.*]

The Hon'ble Member said that he wished this particular item to be discussed as it was, and he declined to make any further statement of his scheme when I asked him if he had anything more to say. Up to the present all that we have had from the Hon'ble Member, the mover of the present motion, is that he thinks it would be a good plan for the Municipal Commissioners to elect their own President. We have heard nothing about the further development of his scheme which has been disclosed in the very interesting and eloquent speech of the Hon'ble Babu Surendranath Banerjee. The plan upon which we have been proceeding is a plan in which I have subjected my own ideas, as to the propriety of the discussion, largely to the personal wishes of the Hon'ble Mr. Apcar. I venture to think that we shall avoid confusion if we do adopt the plan which I originally suggested: that we have now a discussion upon the main principle which is put before us for our acceptance. If the Hon'ble Mr. Apcar, after hearing the speech of his colleague, the Hon'ble Babu Surendranath Banerjee, is prepared now to go on with his statement in his own words and in his own fashion of the principle which he proposes to us, then the Hon'ble Member in charge of the Bill will be able to speak properly. I put it to the Hon'ble Member to take whichever course his own discretion and judgment lead him to think proper."

The Hon'ble MR. APCAR said:—"So far as I am concerned I would have had no hesitation whatsoever, if the amendments had been put in the way Your Honour now suggests, in acceding to any discussion on those lines. I have now very little more to say in the matter, because I have already dealt with the main points. I have no wish to dwell upon points which have been already impressed upon the Council. I of course shall have a reply. I am quite willing that this amendment No. 25* should be taken with amendment No. 16†."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee very correctly pointed out that this amendment is the first of a series of amendments the effect of which is to bring about an entire and radical change in the position and status of the Chairman. In this amendment‡ it is proposed to declare that the Chairman shall not be a member of the Corporation. In the Hon'ble Babu Surendra Nath Banerjee's amendment of section 10 (*now* 11)§ it is proposed that the Corporation shall elect their own President, and in one of his amendments of section 8 (*now* 9)‖ it is further proposed that the

* Printed on page 282, *post*.
† Printed on page 247, *ante*.
‡ *i.e.*, amendment No. 16, which is printed on page 247, *ante*.
§ *i.e.*, amendment No. 55. It was withdrawn at the meeting held on the 11th September, 1899.

General Committee shall elect their own President. So that the Chairman would not be a member of either of the two bodies—the Corporation or the General Committee. The avowed object with which these proposals have been brought forward is to introduce the Bombay system into the Calcutta Corporation. I say the avowed object, because it would be easy to show by going through the Bill and the amendments in detail that that object has not been carried out at all, or only in an imperfect manner. The position of the Chairman, if the amendments that have been moved were carried, would be very different from and distinctly inferior to the position of the Municipal Commissioner as it is under the Bombay Act.

"In the first place with reference to these amendments I would point out that they are not compatible with the principles which the Select Committee and this Council have adopted in framing the constitution and settling the details of the Bill. The Chairman is one of the three co-ordinate authorities who are charged with the municipal government of the town; and the Select Committee, in deciding what particular functions of every kind should be assigned to the Chairman, have proceeded throughout on the understanding that that officer will continue to hold the same position that he does now as President both of the Corporation and of the General Committee. If we are now going to change this, if we are going to declare that he is not to be the President of the General Committee and not to be President of the Corporation, to have no right to vote or to move Resolutions at meetings of those bodies, then it will be necessary for us to go through the Bill again, section by section, in order to see what changes it would be necessary to introduce to meet that altered position. Now, Sir, that is work which cannot possibly be done by this Council as a whole; it can only be done by the Select Committee. Therefore the first effect of adopting the Hon'ble Member's amendment would be that this Council would have to adjourn; it would have to remit the Bill back to the Select Committee, and there would be no possibility of disposing of it during the present Session. That alone is a sufficient reason I think why this amendment No. 16* and all the following amendments should be rejected.

"But, Sir, there is far more to be said about it than this. I am not disposed to deny that the Bombay system in some respects is a good and workable one, and in some particulars I think it is a better system than the system which we have or are going to have in Calcutta. I

* Printed on page 247, *ante*.

[Mr. Baker.]

refer in particular to the exclusive power of making all municipal appointments which in Bombay rests with the Municipal Commissioner. In Bombay the Municipal Commissioner has the sole and exclusive control of the municipal establishments of every grade and description, with the sole exception of the Engineer, the Health Officer, the Secretary and the Secretary's clerks. In those respects I think the Bombay system is distinctly in advance of the system which we have now or the system under the Bill. But, Sir, there are also some defects in the Bombay system; and perhaps the most conspicuous defect in that system is the extreme length to which it goes in separating the executive authority from the other two authorities. Exactly the same defect is to be found in the American Constitution, where neither the President of the United States nor any of his Cabinet Ministers have seats or the right of speech in either House of Congress. The framers of the American Constitution introduced this restriction for precisely the same reasons for which the Hon'ble Members wish to introduce it here, namely, to safeguard the independence of the deliberative body, and to prevent the Executive from usurping an undue preponderance of power. The evils which have flowed from this unfortunate separation in America, the lack of motive power, the lowering of the status of Congress itself, and the total absence of organization or business-like methods in their proceedings have been clearly traced by Professor Bryce, in his standard work on the American Commonwealth. The same evils have manifested themselves on a smaller scale in Bombay; and similar causes will assuredly produce similar results in Calcutta. What we should seek to do is to link these three authorities together, the Chairman, the General Committee, and the Corporation: and unquestionably the best way of doing so is to cause the Chairman to preside at meetings both of the General Committee and of the Corporation. If we do not do so, the initiative of the Chairman will be destroyed, or at all events weakened, and schemes in which all are interested will drag, because there is no one to push them. The legitimate influence of the Corporation and of the General Committee over the Chairman will be weakened. They will correspond with him formally, there will be a great waste of time, and responsibility will be frittered away. And, Sir, there is another drawback to the system which prevails in Bombay to which the Hon'ble Babu Surendranath Banerjee made no allusion: it is that it tends to throw very great and

irresponsible power into the hands of the Municipal Secretary. In Bombay the President is a non-official gentleman elected from year to year. He is not a whole-time officer, he is not a salaried officer. He is, to use an expression we have heard to-day, an ornamental figure-head. He corresponds more or less to the position of the Mayor of an English town. In English towns the whole of the work is really done by the Town Clerk. He is a highly paid and highly qualified expert. The Town Clerk of the City of London draws a salary of £3,500 a year; in Glasgow he gets nearly the same; in Liverpool he draws £2,000 a year. That is the class of officer by whom the work is actually done. In order that business may be efficiently conducted, it is essential that the President of the body which conducts it should be thoroughly familiar with the details of the business to be done, and it is hopeless to expect that a non-official gentleman who has his own business to do, whose time is very fully occupied, and who probably regards the conduct of details as a matter beneath his dignity, should ever find time or go to the trouble to attend to them. The result will be that the Secretary, the only salaried official whose duty it is to put the papers up before the meeting on each occasion, will gradually absorb a large amount of power for which he is not qualified either by salary or status."

The Hon'ble BABU BOIKANTA NATH SEN said:—"With Your Honour's permission I would like to make a few remarks. When the Bill was originally introduced three distincts authorities were intended to be created. Having read the Bill it seems to me that to call the three authorities co-ordinate authorities is rather a misnomer, because they are not independent in themselves. The three are linked together in such a way that one depends upon the other to a certain extent, even so far that I find that one of the sections provides that the General Committee is to hear appeals against certain action and orders by the Chairman. I believe there is a certain section to that effect—section 314A (*now* 327). Now the question is, if the original intention at the time of the introduction of the Bill was to create these three separate authorities, and if that has not been found practicable or feasible or wise, can it be called sound legislation to have these three bodies again constituted in such a way as to give rise to further complications; would not a distinct object be gained if the Corporation consists of the Commissioners

[*Babu Boikanta Nath Sen; Mr. Apcar.*]

only, devoid of the Chairman? Let there be a Chairman with his authorities, privileges and duties, and the General Committee and the Corporation with its members only, they being free to elect their own Chairman. I believe it would minimise to a certain extent the difficulties and complications which might be created, and would avoid discord and friction. It is not my purpose to go over the Bombay Act, and the Hon'ble Member in charge of this Bill has admitted that if that Act had been accepted for Calcutta some of its provisions would have been found better suited and some otherwise. But I would ask Your Honour to consider the case of the other municipalities in Bengal. It will be said that there cannot be any comparsion between mufassal municipalities and the Calcutta Municipality. It is quite true that in every respect there cannot be any comparison between the Calcutta Municipality and the other mufassal municipalities, but where there is a principle found to be efficacious, based on sound legislation, and found to be sound in respect of these mufassal municipalities, that principle, I submit, ought also to be considered as being a sound one in respect of the Calcutta Municipality. In most of the one hundred and fifty mufassal municipalities—I think in round numbers there are about that number—the Chairman is elected by the Commissioners themselves. Of course there are nominated members. The Chairman is appointed by Government in certain cases, but in most cases the Commissioners themselves are allowed the freedom of electing their own Chairman. Here, again, when these different authorities are created, the Chairman of the Commissioners or the President of the Commissioners would be the head of the consultative body. The attempt of the Bill is to disintegrate and separate the executive functions from the administrative functions. If the Commissioners themselves have their own figure-head, he will no doubt help them in their deliberations, and no possible difficulty would arise if they be allowed the option of electing their own Chairman."

The Hon'ble Mr. Apcar said:—"There have been observations made that force me to make a reply. I must apologise to you, Sir, for making you a *particeps criminis* in the waste of time here. The Hon'ble Member in charge of the Bill makes the charge that there has been irrelevant matter introduced which has taken up four-fifths of our time. I fear, Sir, that it is to the President of this Council the blame must attach for having permitted so much

irrelevant matter to be discussed. The Hon'ble Member in charge of the Bill, it seems to me, thinks that anything is irrelevant which is spoken contrary to his own ideas, and I feel bound to say that if the Hon'ble Member had left the business to take its ordinary course in this Council, there would have been a great deal of time saved. With regard to what the Hon'ble Member in charge of the Bill said in respect of the power given to the Government to appoint any fit and proper person to be Chairman as being an answer to my objection, he has missed the point of my contention entirely. My point is this: I say let the Corporation elect for themselves. If they are not fit to elect their Chairman, then I think they are not fit to be entrusted with any powers at all. I would further observe that, as I already have said, the Government has no idea of appointing any person outside their own service. Again, as regards continuity being destroyed, the Hon'ble Member in charge of the Bill has entirely missed what I wished, at all events, to explain. It is this: When we have Chairman after Chairman coming into the Corporation as its head who before has had no connection with a popular representative form of government, who does not know the working of a municipality, he has got to be guided for some time by experienced Commissioners in the General Committee, so that he gradually learns his business. On the other hand, if we have a President elected from among our own body, a Commissioner would be elected who had been serving for some time in the Corporation; he would be familiar with the business of the Corporation and acquainted with the past history of questions that may arise. Because the period of office is one year, as under the Bombay system, it does not follow that he could serve for one year only. The same Commissioner would be eligible for re-election, and even if a different Chairman was elected from the Corporation annually, we would have a more continuous policy than, from the actual circumstances of the present method, can ever be obtained, because it would in effect be the Corporation who would be carrying on the business and not a stranger transplanted from the mufassal.

"I hope, Sir, it will not be thought that I intended to attack any person. I was very sorry to mention any name at all. I would have been very glad to have been able to omit names. I was forced to mention names; you will remember, Sir, that I almost apologised for doing so. I repeat again that I did not in any degree mean to attack any individual, but I was attacking

[*Mr. Apcar; the President.*]

the system. It is only adding point to my argument that the matters that I have referred to were done in ignorance. I never suggested that the Chairman whom my hon'ble friend mentioned would have done deliberately what I have given as an illustration in support of my contention. I have assumed that he acted in ignorance, and I have expressly so stated in what I have before written and said on the subject, as my hon'ble friend must be aware. If I have been inaccurate in any statement, it is open to the Hon'ble Member to correct me.

"Again, in the Verandah question, the Chairman's motion was beaten. What did he do? He sent out a whip, brought all his supporters again, and carried his motion. Any matter that he desires to carry he can carry, if he chooses."

The Hon'ble THE PRESIDENT said:—"Gentlemen, we come now to a conclusion on one of the most important issues that will be probably put before us in the whole course of this discussion, and I should like therefore myself to sum up the debate in a very few words. There appear to be before us in the speeches that have been delivered two issues: one is that the Chairman of the Corporation should be elected by the Corporation. The other is that the Chairman or the Executive official of the Corporation should be entirely outside and independent of the corporate body.

"On the first question you have to remember that a large amount of appeal has been made to the Bombay precedent. You know there that the Executive authority is not appointed by the Corporate body. He is appointed by Government, and not by the Municipal Commissioners, and, therefore, in this matter the Bill only follows that precedent to which appeal has been expressly made; but further I have to remind the Council that the Bill directly and clearly states that the Chairman to be appointed by the Government shall be a person whom the Government consider to be a fit and proper person. The Bill does not say that the person who is to be appointed Chairman of the Corporation shall be a member of the Civil Service. I hope heartily that it shall not fall to my lot in my term of office to appoint a Chairman. You could not have a better man than you have at present; but if, unfortunately, a vacancy should occur, you may rely upon it that my Government will, in discharging their very responsible duty, select the man whom they consider to be the most fit and proper person, irrespective of any service trammels.

[*The President.*]

"Now I come to the second point, as to whether the Chairman should or should not be a member of the Corporation. If anything could have moved me in a matter of that kind, it would have been the eloquent, earnest and almost pathetic appeal of the Hon'ble Babu Surendranath Banerjee; but my mind upon that point is absolutely and perfectly clear. The Hon'ble Member appealed to experience. So do I, and I illustrate my opinion on this matter by two analogies: the first is that of the District Boards. In 1882 and 1883, when I was in the North-Western Provinces, I was member of a Committee that sat under the orders of the Lieutenant-Governor to consider what were the best means of carrying out that great scheme in the rural parts of the country, and the first, and perhaps the most important, point that was put before us for decision was this: shall the control of the Collector in the districts be from within or from without? And every member of that Committee gave an opinion except one, and that one was the most acute and the most astute native adviser that we had at that time in the North-Western Provinces. His name is well-known to some of you—Raja Shiva Persad, of Benares, and when he alone was left to speak, the whole meeting turned to see what he had to say. He said: 'I will tell you my opinion by a parable. Put twelve coolies to a rope to pull a cart, and they are all right as long as the twelve are pulling together, but take one of those coolies out and put him on the cart with a long whip, and the remaining eleven do not like it.' Now the experience of control from within of the Collector over his District Board is absolutely in favour of the plan of having the executive and the corporate body together. No one will deny that that adjustment has, as Raja Shiva Pershad predicted, answered to the advantage of all concerned. Now I shall give you another, and I hope a still better instance, and that is my own. Here I stand before you, President of this deliberative body, and at the same time I am the head of the Executive of this Province. I can conceive nothing more inexpedient and more inadvisable than that my connection with this Council should be severed. From this Council the Lieutenant-Governor receives constant support, help, advice, and, indeed it may be, check, if his measures are ill-advised. I consider that, so far from its being an advantage to separate the executive and deliberative authorities as my hon'ble friends Mr. Apcar and Babu Surendranath Banerjee have recommended, there could be nothing more injurious than to separate the one from the other. Each gathers from the other experience

[*The President; Mr. Baker; Babu Surendranath Banerjee.*]

and suggestions which no other connection that I know of yields. It is for this reason that the members of the Government of England are associated with the Houses of Parliament, and it is for this reason that I am positive that, in the interests of the city and in the interests of every good work undertaken in it, its Chairman should not be severed from the Corporation."

The amendment No. 16* was then put and lost.

SECTION 6.

The Hon'ble THE PRESIDENT ruled the following motion, standing in the name of the Hon'ble Mr. Apcar, to be out of order:—

That in section 6 for the word "fifty" the words "sixty-four" be substituted.

SECTION 5.

The Hon'ble MR. BAKER said:—"Amendment No. 11† disappears in consequence of the decision on amendment No. 16.*"

The Hon'ble THE PRESIDENT said:—"That amendment was to stand over until the vote on amendment No. 16* had been taken."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have already indicated what I had to say with regard to this amendment: that it is to be taken along with my motion (amendment No. 55‡) for the addition of a proviso to section 10 (*now* 11). In fact, it forms part of the same group of amendments."

The Hon'ble THE PRESIDENT said:—"When does the Hon'ble Member wish to take it?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I will take it in connection with section 10 (*now* 11)."

The Hon'ble MR. BAKER said:—"I submit we have already discussed amendment No. 25§ along with No. 16.* Amendment No. 25§ is practically identical with the amendment moved by the Hon'ble Babu Surendranath Banerjee on section 10 (*now* 11), and the vote on No. 16* which we have just taken will have the effect of ruling it out."

* Printed on page 247, *ante*.
† Amendment No. 11 was a motion by the Hon'ble Babu Surendranath Banerjee "that the words 'of the Corporation' in clause (3) of section 5 be omitted."
‡ As to amendment No. 55, *see* the second paragraph of the first footnote on page 248, *ante*.
§ Printed on page 283, *post*.

[*Babu Surendranath Banerjee; Mr. Baker; the President; Mr. Apcar.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have no desire to renew the discussion, because I quite agree with the Hon'ble Mr. Baker that this is really an amendment with regard to which there has been a discussion."

The Hon'ble MR. BAKER said:—"The President is asking whether you object to amendments Nos. 11* and 55† disappearing as being governed by the decision on Nos. 16‡ and 25.§"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It must be governed by the voting upon the other sections. There is only one remark I wish to make. I think it is not desirable, having regard to the fact that the Chairman is the head of the Executive and that the Corporation takes cognisance of the decisions of the Executive on appeal, that the head of the Executive should sit in judgment upon appeals to which he himself is a party. It seems to me to be a combination of functions which are inconsistent with our elementary notions of justice."

The Hon'ble THE PRESIDENT said:—"Does the Hon'ble Member wish to speak to item 55†?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"No, Sir, except the observations I have just made."

The Motion (amendment No. 11) that the words "of the Corporation" in clause (*3*) of section 5 be omitted was then put and lost.

NEW SECTIONS.

The Hon'ble MR. APCAR then moved amendment No. 25, namely, that after section 6 the following section be added:—

"6AA. (*1*) The Corporation shall, at their first meeting in each financial year, appoint one of their own number to be President until the first meeting of the Corporation in the next following financial year, unless the Councillors in the meantime retire from office, and then until the day of such retirement.

"(*2*) Any Councillor who ceases to be President shall be re-eligible.

"(*3*) If any casual vacancy occurs in the office of President of the Corporation, the Corporation shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy; and every President so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred."

The Motion was put and lost.

* Amendment No. 11 was a motion by the Hon'ble Babu Surendranath Banerjee "that the words 'of the Corporation' in clause (*3*) of section 5 be omitted."

† As to amendment No. 55, *see* the second paragraph of the first footnote on page 246, *ante*.

‡ Printed on page 247, *ante*.

§ Printed *post*.

[*Mr. Apcar; Babu Surendranath Banerjee.*]

The Hon'ble MR. APCAR, by leave of the Council, then withdrew his his amendment No. 26, namely, that after the above proposed section 6AA the following section be inserted:—

"6AB. The Commissioner shall have the same right of being present at a meeting of the Corporation and of taking part in the discussions thereat as a Councillor, and, with the consent of the President of the meeting, may at any time make a statement or explanation of facts; but he shall not be at liberty to vote upon, or to make, any proposition at such meeting."

SECTION 6.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew his motion (amendment No. 18) that the words "the Chairman and" in lines 1 and 2 of section 6 be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE moved his amendment No. 19, namely, that the words "the Vice-Chairman" be inserted after the word "Chairman" in lines 1 and 2 of section 6. He said:—

"Our endeavour, I mean that of the popular part of this Council, has been to obtain, as far as possible, the incorporation of the Bombay system into the Calcutta system. In that endeavour we have had the judgment of this Council, and a very decisive judgment it has been, namely, the Council has decided by an overwhelming majority that the amendments of which we had given notice, with a view to incorporate the Bombay system into the Calcutta system, shall not find a place in the Municipal Act. That being so, Sir, we fall back upon the Calcutta system. If we are not to have the Bombay system, let us have the Calcutta system; let us not have something which is neither one nor the other. Let us not have a system which shall be attended with all the inconveniences, all the difficulties, and all the complications of an unknown system. Therefore, Sir, I venture to propose that the Vice-Chairman be, as he has always been, a member of the Corporation. He is a very efficient member of the Corporation, and I appeal to my friends the Hon'ble Mr. Oldham and the Hon'ble Member in charge of the Bill in support of what I say. It seems to me that the Vice-Chairman ought to be permitted to be a member of the Corporation. This Bill will come into law on the 1st April, 1900, and from that day the Vice-Chairman will cease to be a member of the Corporation. It is a distinct advantage to have an officer like the Vice-Chairman, who is generally

[*Babu Surendranath Banerjee.*]

an Indian officer, in the position of a Municipal Commissioner. Oftentimes the interposition of the Vice-Chairman in heated debates has the effect of strengthening the Executive side of questions. I would refer to an item of business which was transacted the other day in which the views of Government were accepted after considerable discussion, and I may add after considerable hesitation, and I do not think I am guilty of the slightest exaggeration when I say that the views of a large number of us, among the Hindu Commissioners, were determined very considerably by the attitude of the Vice-Chairman, who was present at the meeting and explained his views. I think the Hon'ble Member in charge of the Bill will remember that Government in their Resolution upon the Administration of the Municipality made a recommendation to the effect that notices of demand should be issued within the currency of the quarter in respect of rate bills. We issue such notices in the fourth quarter now. The Government, with a view to render the collections more satisfactory, suggested that, subject to certain necessary safeguards, notices of demand should be issued during the currency of the quarter. Many of us had considerable doubts with regard to the advisability of that suggestion. We thought it was a suggestion which, if accepted, might be attended with a considerable measure of oppression practised upon the poor and the helpless. That was a consideration which weighed with many of us, and, Sir, you will admit that as representatives of the people we are bound to take that view of the case and to give that view of the case the prominence it deserves. We wanted to know what the Vice-Chairman thought and what his views were with regard to the matter, because we knew that he was in sympathy with the popular side of the case. He was of opinion that, subject to the safeguards which we provided, there would be no oppression consequent upon the carrying out of the suggestion of the Government. That determined my vote, and I have no doubt it determined the votes of several of us. I take that as a concrete case. There may be other cases. It is a distinct advantage to have an Indian officer in the position of the Vice-Chairman as a Municipal Commissioner. He becomes, so to speak, the interpreter between the official head of the Corporation on the one hand and the Hindu Commissioners and the large body of Indian rate-payers on the other. From the administrative point of view the advantage of having the Vice-Chairman as a Commissioner cannot be over-estimated. There is also another

[*Babu Surendranath Banerjee; Mr. Baker.*]

view of the matter to which I desire to call attention. Under section 74 (*now* 81) you provide as follows:—

'The Chairman or, in his absence, the Vice-Chairman or the Deputy Chairman as the Chairman may direct, shall preside at every such meeting, and shall have a second or casting vote in all cases of equality of votes.'

"Sir, the Vice-Chairman is not a member of the Corporation, but all of a sudden he is elevated to the position of being President of the Corporation. He is not a member of the Corporation, but he is allowed to vote. He is not a member of the Corporation, but he is to have a double vote as President. This is an anomaly which could not fail to occur to an experienced administrator like the Hon'ble Mr. Baker. In order to cure this anomaly, my hon'ble friend has appended an Explanation to section 75 (*now* 82) as follows:—

'For the purposes of this section, the President at a meeting of the Corporation shall be deemed to be a Commissioner.'

"In curing one anomaly my friend rushes into another. The Vice-Chairman is to be the President of the meeting of the Corporation, and for the time being he is to be a Commissioner. For how long—may I ask? The Vice-Chairman is a Commissioner for one hour and no longer. I think, Sir, all these complications might be removed by legislating to the effect that the Vice-Chairman is to be a Commissioner. The Vice-Chairman is a Hindu gentleman of eminence; he represents the Executive of the Corporation; he has sympathies with the rate-payers; his influence with the Hindu Commissioners is great; he becomes by virtue of his position the exponent and the interpreter of the official view to the Hindu Commissioners. This is a distinct advantage, and you ought not to deprive the Corporation of it. Ever since 1874 you have had a Hindu gentleman in the position of Vice-Chairman, and he has been a Commissioner, and it has always been found to be advantageous. Apart from considerations of administrative anomaly, there is this paramount consideration of administrative convenience; and, taking my stand upon that ground, I venture to appeal to Your Honour to accept the amendment which I have the honour to propose."

The Hon'ble Mr. Baker said:—"I should have had very little objection to this amendment if the Hon'ble Member had added the Deputy Chairman to it. All throughout our proceedings it has been the endeavour of the Select Com-

mittee to place the Deputy Chairman and the Vice-Chairman on a similar footing, and if the Hon'ble Member had moved that both 'Vice-Chairman' and 'Deputy Chairman' should be members of the Corporation, I think it very probable that I should have been prepared to accede to his wishes. But as a matter of fact there is no absolute necessity that either of them should be on the Corporation. We provide that the Chairman shall preside on all ordinary occasions. On the few occasions that he is absent, we make provision in section 74 (*now* 81) that the Deputy Chairman or Vice-Chairman shall fulfil his duties temporarily. That being so, there is no absolute necessity why either of his two lieutenants should be with him on the Municipal Board. The Hon'ble Babu Surendranath Banerjee has mentioned an instance in which the present Vice-Chairman has rendered valuable service by his advice and suggestions to the Corporation, and he suggested that he did this by virtue of his being Vice-Chairman; but it is obvious that it would have been perfectly possible for him to have given the same advice, to have made exactly the same statement to the Corporation, even if he had not been a Commissioner. It is the regular practice in the Corporation when any question comes up which affects the Head of a Department, such as the Engineer or Health Officer, to invite that Head of the Department to be present and to state his views personally to the Commissioners. The Vice-Chairman, I presume, will, among other positions, be the Head of the Accounts Department, the Head of the Collection and Warrant Department, of the Corporation under the Bill. Therefore under the Bill the Vice-Chairman, even though not a member of the Corporation, would in the ordinary course have been present, and would have been invited to explain the whole position to the other Commissioners."

The Hon'ble MR. APCAR said:—"Sir, I should not like to give a silent vote to this amendment. From my experience, the connection of the Vice-Chairman with the Corporation as a member of it has acted for nothing but good. And, with regard to the remark that fell from the Hon'ble Member in charge of the Bill that he would be willing to accede to the amendment of my hon'ble friend Babu Surendranath Banerjee if 'Deputy Chairman' were added, surely that concedes the argument, and the Hon'ble Member cannot but mean that he considers the Vice-Chairman would be a useful member of the Corporation, and that it would be advisable to have him as a member of that body,

[*Mr. Apcar; Babu Surendranath Banerjee.*]

but he will not have him separated from the Deputy Chairman in any way. It is always open to my hon'ble friend Mr. Baker to add an amendment to a later section. It is not too late for him to add as an amendment that which would meet with his own wishes, and we know that whatever he may choose to propose is bound to be passed. So that, so far as we are concerned in considering this particular point, it seems to me that everything my hon'ble friend Mr. Baker has said is entirely in favour of the admission of the Vice-Chairman as a member of the Corporation. And, Sir, I protest against the absurd idea of the Vice-Chairman and Deputy Chairman becoming members of the Corporation for half an hour or so in order to preside at the meetings of the Corporation, as is provided in a later portion of the Bill. It is a reflection, I think, on the members of the Corporation when those who are not members of the Corporation are dragged in because it is supposed that those who are members of the Corporation are not fit to preside in any circumstances whatever."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"The Hon'ble Member in charge of the Bill is anxious to place the Vice-Chairman and the Deputy Chairman upon the same footing, but I think the Hon'ble Member will agree that, so far as the measure of responsibility is concerned, there is a very great difference between a young officer of the status of a Joint-Magistrate and an experienced and trained administrator of the status of a Vice-Chairman. A Deputy Chairman, I presume, will be a young officer with all the energy and the immature vigour of youth; but would he be fit to be placed in charge of the Warrant Department, the Loans Department or the collections extending over forty-four lakhs of rupees, which great departments are now controlled by the Vice-Chairman? The measure of the responsibility of the Vice-Chairman is infinitely superior to the responsibility which would be cast upon the Deputy Chairman. Therefore, to place the Deputy Chairman upon the same footing with the Vice-Chairman irrespective of the measure of his responsibility would be a serious legislative and administrative blunder. They ought not to be placed upon the same footing. The Deputy Chairman would probably some day be Chairman, in the same way as a Joint-Magistrate becomes Magistrate. That is his training ground, and surely he ought not to be placed at the outset upon the same footing with the Vice-Chairman? I therefore respectfully join issue with that statement of my hon'ble friend in charge

[*Babu Surendranath Banerjee ; the President.*]

of the Bill. I find myself in the unfortunate position of not being able to agree with him in regard to another statement made by him. He has observed that even if the Vice-Chairman were not a member of the Corporation, it would still be open to him to give the same advice. But, Sir, there would be a difference between the advice tendered in the one case and that tendered in the other. As a member of the Corporation he would come in contact with the Commissioners; he would be known to the Commissioners; he would have personal influence with the Commissioners; the Commissioners would be likely to respect him; they would repose confidence in him, and when he gave advice, that advice would be accepted. But when he comes as a stranger, as a mere official, the advice that he tenders would not be accepted with the same confidence as if that advice were tendered by him as a colleague with whom they were intimately acquainted. I hope that, having regard to these considerations, my hon'ble friend in charge of the Bill will see his way, and I hope and trust, Sir, you will see your way, to accept the amendment which I have the honour to move."

The motion was put and lost.

The Hon'ble THE PRESIDENT ruled the following motions, standing in the name of the Hon'ble Babu Surendranath Banerjee, to be out of order:—

(*1*) that the words "seventy-five" be substituted for "fifty" in line 2 of section 6;

(*2*) if the above amendment be lost, that the word "sixty" be substituted for "fifty" in line 2 of section 6.

The Hon'ble THE PRESIDENT also ruled the following motion, standing in the name of the Hon'ble Babu Boikanta Nath Sen, to be out of order:—

that in section 6 "seventy-five" be substituted for "fifty".

The Hon'ble THE PRESIDENT also ruled the following motions, standing in the name of the Hon'ble Raja Shashi Shakhareswar Roy Bahadur, of Tahirpur, to be out of order:—

(*1*) that in section 6, for the word "fifty", in line 2, the words "seventy-five" be substituted;

[*The President; Mr. Baker.*]

(*2*) that for the words "to be elected or appointed as hereinafter provided" the following be substituted, namely:—

"of whom twenty-five shall be elected at ward elections, twenty-five by such public corporate bodies as the Calcutta University, the Bengal Chamber of Commerce, the Trades Association, the Commissioners for the Port of Calcutta, the Zamindary Panchayat, the British Indian Association, the Indian Association, the Bengal National Chamber of Commerce, the Central National Muhammadan Association, &c., &c., to whom the Local Government, at their discretion, may from time to time grant such franchise; and the remaining twenty-five shall be appointed by the Local Government."

SECTION 8.

The Hon'ble THE PRESIDENT also ruled the following motions, standing in the name of the Hon'ble Mr. Apcar, to be out of order:—

(*1*) that in section 7 (*now 8*), sub-section (*1*), for the words "twenty-five" the words "thirty-two" be substituted;

(*2*) that in section 7 (*now 8*), clause (*d*), for the word "fifteen" the word "nine" be substituted;

(*3*) that in section 7 (*now 8*), after clause (*d*), the following clauses be added:—

"(*e*) two by the British Indian Association,

(*f*) three by the Muhammadan Literary Society,

(*g*) three by the Central National Muhammadan Association,

(*h*) two by the Honorary Magistrates and Justices of the Peace in and for the town of Calcutta,

(*i*) two by the University of Calcutta, and

(*j*) one by the Bengal National Chamber of Commerce."

(*4*) that, in line 3 of sub-section (*5*) of section 7 (*now 8*), for the words "clauses (*a*), (*b*) and (*c*)" the words "clauses (*a*), (*b*), (*c*), (*e*), (*f*), (*g*), (*h*), (*i*) and (*j*)" be substituted.

The Hon'ble MR. BAKER said:—"Amendment No. 31* is in order, but Nos. 32 and 33† are not in order, as I think will be admitted after what has fallen from the President. Amendments 34,‡ 36§ and 37,‖ and also another one¶ on the supplementary list filed by Raja Ranajit Sinha of Nashipur, all cover the same ground; they are all in order. It would be convenient if these five amendments, namely, 31, 34, 36, 37 and 2 in the supplementary list, and a supplementary one** which the Hon'ble Babu Surendranath Banerjee wishes to put in now, were all considered together, and discussed at the same time.

* Printed on page 290, *post*.
† Printed on page 308, *post*.
‡ Printed on page 291, *post*.
§ Printed on page 293, *post*.
‖ Printed on page 293, *post*.
¶ Printed on page 297, *post*.
** Printed on page 297, *post*.

[*Mr. Baker; Babu Jatra Mohan Sen.*]

When amendments are taken together, it is for each Hon'ble Member to move his own and to discuss them all at the same time, and then the votes are taken."

The Hon'ble BABU JATRA MOHAN SEN moved (amendment No. 31) that the following amendments be made in section 7 (*now* 8), namely:—

'(*1*) in clause (*a*) substitute "three" for "four,"

(*2*) in clause (*b*) substitute "three" for "four,"

(*3*) add "(*bb*) two by the Bengal National Chamber of Commerce,

"(*cc*) two by the Muhammadan Literary Society and the Central National Muhammadan Association, namely, one each,

"(*ccc*) two by the University of Calcutta,"

(*4*) in clause (*d*) substitute "eleven" for "fifteen,"

(*5*) in sub-section (*3*) substitute "(*bb*), (*cc*) and (*ccc*)" for "and (*c*)'."

He said:—"In proposing this amendment I venture to submit that, the principle underlying the present Bill being to give predominence to the representation of mercantile interests, I think it just that the Bengal National Chamber of Commerce should have a power to nominate at least two Commissioners, the English merchants returning eight according to my amendment namely, three by the Chamber of Commerce, three by the Trades Association, and two by the Commissioners for the Port of Calcutta.

"It has often been complained that at Ward elections the Muhammadans are not properly represented. I have therefore thought fit to authorise the two leading Muhammadan Societies to nominate two Commissioners. Then, again, following the Bombay Act, which has been taken as the model in framing the present Bill, I have proposed to take two Commissioners from the University. The University represents the intellect of the country, and it is just that it should have a voice in the nomination of Commissioners, as in Bombay.

"If the English merchants are deemed not to have been properly represented, the Government may supplement the number by nomination, and maintain an equilibrium.

"I am aware there are other Associations, such as the British Indian Association, the Indian Association and the Zamindari Panchayat. These are important bodies, and they should certainly be represented. I am confident the

[*Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

Government will exercise its power to take at least one nominee of each of the above bodies.

"It is true I have not introduced these Associations into my amendment, but this does not signify that they were absent from my mind. I have left it to Government to take in their nominees to restore an equilibrium, if the communities whom these Associations represent, are not adequately represented.

"As five different amendments are to be discussed together, the best thing would be to take the proposals referring to nomination by each body as a separate amendment, so that the chance of conflict may be minimised."

The Hon'ble BABU SURENDRANATH BANERJEE moved (amendment No. 34) that the following be substituted for section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)]:—

"The remaining Commissioners shall be appointed as follows:—

(*a*) eleven by the Local Government,

(*b*) ten by the Presidency Magistrates,

(*c*) two by the Bengal Chamber of Commerce, and

(*d*) two by the Fellows of the University."

He said:—"Here again I follow the Bombay model. If among 72 Commissioners in Bombay the Government appoints 16, what should be the number that Your Honour's Government ought to appoint among 50 Commissioners? It is 11, or a little over 11. Therefore I suggest that the number to be appointed by Government, directly following the Bombay model, should be 11. Then, Sir, I eliminate the Trades Association and the Port Trust. We have in the Bombay Act the Chamber of Commerce returning two members, and they have also a Port Trust there. It seems to me—with all the respect that I feel for the Hon'ble Members representing the Port Trust, that to ask that body to return members, after having asked the Chamber of Commerce and the Trades Association to do so, is really bringing coals to Newcastle. What is the Port Trust? An echo, a reflection, of the Chamber of Commerce and the Trades Association. Therefore, Sir, I think there ought to be no squeamishness whatever in refusing to allow the Port Trust to return members.

"Then I come to the Trades Association, and here I admit that I suggest a recommendation which is outside of the present law, and, Sir, I confess I am

somewhat of a conservative in these matters. When a law is a good law and has been found to be so in practice, I do not advocate a change. But, Sir, the Trades Association and the Chamber of Commerce represent one and the same interest. There is absolute uniformity of aims and ideas between them, and no more striking illustration of the cordiality and the uniformity of interest between the two bodies is to be found than in the hearty good-will which prevails in this Council Chamber between my two hon'ble friends who represent them. The other day, in reference to a particular matter, I tried to get over one of my hon'ble friends to my side. I had nearly succeeded, as I thought in my mind; but a conference took place between them, and then I found that my labour was completely lost. Therefore it seems to me that, as far as the Chamber of Commerce and the Trades Association are concerned, there being this complete uniformity of interests, the Chamber of Commerce ought to be able to represent the interests of the Trades Association, or *vice versâ*.

"If we accept this view, we shall then be in a position to bring in the other constituencies. The Presidency Magistrates represent the majesty of law and justice, and there are members of the mercantile community and members of the trades who are Presidency Magistrates. Then there are Fellows of the University—a learned body. I think, now that we are recasting the law, it is necessary that we should obtain a wider and a more divergent representation, and that wider and more diversified representation would be obtained by introducing the Presidency Magistrates and the Fellows of the University. I can well understand the reasons which induced the legislators of 1888 to make the Chamber of Commerce and the Trades Association the two different constituencies that they now are. At that time the endeavour was made to persuade the European community to take part in municipal affairs. The European community at that time were in a minority. Is not the aspect of things completely changed as regards the Municipality by this Bill? The European community will be in the majority. We Hindus need to be protected. Special constituencies are necessary for us, and therefore I ask that the University, in which there is a large element of the Indian community, and the Presidency Magistrates, in which there is also a considerable Indian element, should be formed into constituencies for purposes of municipal representation. This Bill will give the supremacy to the European community in the affairs of the Corporation, and will reduce the Hindus to a minority.

[*Babu Surendranath Banerjee; Babu Boikanta Nath Sen; Dr. Asutosh Mukhopadhyaya.*]

That being so, what are we to do with these constituencies? They ought to be adjusted to suit the changed circumstances, and the re-adjustment which I suggest would secure a wider, a more diversified and a more diffused representation, which I think is essential for the sound and efficient administration of our municipal affairs."

The Hon'ble BABU BOIKANTA NATH SEN moved (amendment No. 36) that the following be substituted for section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)]:—

"The remaining Commissioners shall be appointed as follows, namely:—

(*a*) eleven by the Local Government,

(*b*) ten by the Presidency Magistrates,

(*c*) two by the Bengal Chamber of Commerce, and

(*d*) two by the Fellows of the Calcutta University."

He said:—"I embark in the same boat as my hon'ble friend Babu Surendranath Banerjee, so that I can only endorse the arguments which have been addressed to the Council by the Hon'ble Member. I would only add this: The Government of India, in their despatch No. 93,* have recognised two interests: one European interest and the native interest. The Government reserve to itself the power. According to the Bill there would be an abnormal preponderance of the European element. These three interests—the Bengal Chamber of Commerce, the Calcutta Trades Association and the Commissioners of the Port of Calcutta—all represent the same interest, and inasmuch as two of them—the Calcutta Trades Association and the Commissioners for the Port of Calcutta—do not find any place in the Bombay model, my amendment is designed to eliminate them."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved (amendment No. 37) that, in section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)], the word "and" at the end of clause (*c*), and the whole of clause (*d*), be omitted, and that the following be substituted:—

'(*d*) one by the Senate of the University of Calcutta, and

'(*e*) fourteen by the Local Government.'

He said:—"Sir, it was not without some hesitation that I decided to bring before the Council the proposition which I have now the honour to move for

* This despatch is dated the 17th June, 1899, and is printed in Papers No. 40 relating to the Bill.

[*Dr. Asutosh Mukhopadhyaya.*]

your acceptance. Such hesitation arose, not because I had any doubts as to the perfect propriety of my motion, but because I found that, in whatever way I might press the claims of the University, I must necessarily encroach upon the privileges of the Government of Bengal. But I must confess that, when I discovered that other Hon'ble Members had undertaken to support the cause of the University in the manner indicated in the motions which have been disallowed, I felt somewhat embarrassed. I naturally feel gratified that so many Hon'ble Members should interest themselves in the matter, for the University is entitled to the loyalty and devotion of all her children; but at the same time I venture to think that her claim, if carried to excess, might be altogether lost, and, if linked with other claims not equally strong, might not be sufficiently distinguished. That my fears were not altogether unfounded has, I think, been amply proved by the fate of the motions disallowed. In the first place, it seems to me that if the University of Bombay, with a Senate of over 300 members, sends two representatives to a Corporation of 72, I do not think I can legitimately ask you to give the University of Calcutta, with a Senate of over 200 members, more than one representative upon a Corporation of 50. In the second place, I do not think it wise to couple the claims of the Calcutta University with those of the other Associations which I should be happy to see represented on the Municipal Corporation; for I cannot afford to forget that, whatever the status and the usefulness of these public or semi-public bodies may be, their claims can hardly be placed as high as those of the University, which is a Corporation created by Statute, which has for its Chancellor the highest official in the land, and which controls the higher education of the people, not only of the provinces under Your Honour's rule, but also of Assam, Burma and Ceylon. However much, therefore, I may rejoice at any decision of the Council favourable to these Associations, I must ask you to consider the present motion as distinct from those that have preceded it.

"Sir, I have just alluded to the system which prevails in Bombay, but it is neither necessary nor desirable to support my proposition solely by analogy; the strongest arguments in its favour are, I think, to be found within the four corners of the Bill now before you. In the first place, if we turn for a moment to the provisions of section 23A (*now* 14), sub-section (*2*), clauses (*vii*) and (*viii*),

which describe the special functions of the Corporation, we find that the promotion of primary and technical education and the provision of free libraries are two of the objects to which they may devote their attention. It is hardly necessary for me to point out that, in this inclusion of educational objects within the scope of municipal activity, we are not by any means singular; if, for instance, we turn to sections 61 and 63 of the Bombay Act, section 33 of the Madras Act, and section 72 of the Punjab Act, we find similar provisions, for the promotion of educational objects, and for the construction and maintenance of free libraries, museums and art galleries. If these, then, are legitimate objects falling within the province of municipal government, I venture to affirm that there is nothing unreasonable in my proposition that there should be at least one educational member on the Corporation. Criticisms, some of them not very just or impartial, have been levelled at the Corporation from so many different quarters, and upon such diverse topics, that I have no desire to add to their number; but I regret to have to say that the promotion of technical education and the maintenance of a free public library have been two of the neglected fields of activity. It has been one of the lasting reproaches of the capital of the Indian Empire that we have not here a public library either worthy of the city or sufficient to satisfy the needs of the educated public. It is not essential that I should take up your time by a detailed account of what has been done in similar directions by the great Municipal Corporations of England and the Continent, but I confes I feel humiliated when I consider that the Corporations of Manchester, Birmingham and Berlin have shown a wonderful enthusiasm in the establishment and development of the free-library system, and in the promotion of special and technical education under municipal auspices, while we have neglected to do even what little we might have done with the limited means at our disposal. I trust, Sir, that, if it be the pleasure of this Council to decide in favour of my proposition, the University will be in a position to send as its representative on the Corporation a person who has devoted himself to the study of the educational problems of the day, and who, by the accuracy and moderation of his views, may make them acceptable to the members of the Corporation.

"In the second place, Sir, I desire to invite the attention of the Council to the fact that the Senate of the University numbers on its rolls the most distinguished Doctors and the most competent Engineers, both native and

[*Dr. Asutosh Mukhopadhyaya.*]

European, that we have in this country. It has always seemed to me somewhat anomalous that the only qualification which entitles a person to take a part in the municipal government of the city should be a purely property qualification; and had it not been for the decision of the Government of India, reducing the number of elected Commissioners from 50 to 25, I should have been prepared to move that one at least of the Commissioners, returned by each of the Wards, should be a qualified medical practitioner or a well-trained Engineer. Be that as it may, I venture to express the hope that, if the Senate of the University be authorized to send a representative to the Corporation, it may from time to time send a great Doctor, or an experienced Engineer, whose helpful advice could otherwise hardly be secured.

"In the third place, Sir, I desire to point out that the University is, if I may be allowed the use of the expression, a *neutral* constituency. Although I am placing this ground last, it is by no means of the least importance, and I would venture to invite your special attention to it. If you examine the constitution of the Senate from year to year, you will find that what I may call the European and the native elements almost balance each other. In some years, perhaps, owing to death, resignation or retirement in the ranks of the one, the other may predominate; but, taken as a whole, each balances the other; for instance, if you look to the constitution of the Syndicate, which is the governing body of the University, in the present year, you find that there are seven Europeans and four Indians, one of whom is a Muhammadan. If yon take last year's figures, you will find that there were five Europeans and six Indians, of whom two were Muhammadans; but, apart from the question of mere numbers, I rejoice to think that party feeling has not, as yet, to any appreciable extent, invaded the ranks of the Senate, and it has always been a source of gratification to me that the position which I have attained in the University is due as much to the indulgence of my European as of my native friends. I trust, therefore, that, if the University has an opportunity of sending a member to the Corporation, such nominee will reflect the neutral character of the body he represents.

"I have now stated, as briefly as I could, the reasons in support of my proposition, which, analysed, comes to this,—the Government of Bengal has the power of appointing 15 members of the Corporation; these members, I take it, will represent minorities and interests other than those represented by the

[*Dr. Asutosh Mukhopadhyaya; Raja Shashi Shakhareswar Roy Bahadur, of Tahirpur; Mr. Baker; Babu Surendranath Banerjee.*]

5 elected Commissioners and the 10 Commissioners appointed by the epresentatives of Trade and Commerce. Can the University fairly claim to be ne of these minorities, and ask the Government to concede the privilege of ppointing one member on the Corporation? I leave the decision confidently n the hands of the Council, in the belief that, whatever may be the fate of y motion, it will have the sympathy of all who have been educated at an ndian University or at any of those ancient seats of learning which are the lory of England; and shall I venture to indulge, Sir, in the hope that it may ave the sympathy of Your Honour, whose name appears on the rolls of our Jniversity as its senior Fellow and who, if he had not chosen to adorn another phere, might well have been proud of his academic distinctions."

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR of Tahirpur, n the absence of the Hon'ble Raja Ranajit Sinha Bahadur of Nashipur, moved, n behalf of the latter (amendment No. 2 in the supplementary list) that the word "ten" be substituted for the word "fifteen" in clause (*d*) of section 7 (*now* section 8), and that after clause (*d*) the following clauses be inserted:—

'(*e*) two by the British Indian Association;

'(*f*) one by the Bengal National Chamber of Commerce; and

'(*g*) two by the Muhammadan Literary Society and the Central National Muhammadan Association, respectively.'

The Hon'ble MR. BAKER said:—"Does the Hon'ble Babu Surendranath Banerjee wish to now put in an alternative motion?"

The Hon'ble BABU SURENDRANATH BANERJEE then, with the leave of the President, moved that, if his first amendment (namely, amendment No. 34) of section 7, sub-section (*1*) (*a*), [*now* section 8, sub-section (*2*)], be lost, the following be added that sub-section:—

'The remaining Commissioners shall be appointed as follows:—

eleven by the Local Government;
four by the Bengal Chamber of Commerce;
four by the Calcutta Trades Association;
two by the Presidency Magistrates;
two by the University of Calcutta; and
two by the Bengal National Chamber of Commerce.'

[*Babu Surendranath Banerjee; Mr. Baker.*]

He said:—"I venture to submit that this amendment moves along the line of least resistance. I keep existing things intact as far as practicable. I only seek to deprive the Government of the right of appointing four members. The Government appoints 15 members under the Bill; I suggest that Your Honour may be pleased to appoint only 11. And here again I fall back upon the Bombay model. Under the Bombay model the number ought to be 11 and no more. Then I suggest that the Port Trust should be deprived of their franchise. The Port Trust need not return members when the Chamber of Commerce and the Trades Association have the right of returning eight members between them. In Bombay the Port Trust does not return a single member to the Corporation. I keep the number for the Trades Association, which is 4; I keep the number for the Chamber of Commerce, *viz.*, 4; I get 4 from the Government and 2 from the Port Trust. Then I distribute the 6 among three different constituencies: 2 for the Presidency Magistrates, 2 for the University and 2 for the National Chamber of Commerce. It strikes me that these proposals ought to be accepted by the Government. It makes the least disturbance of existing arrangements, and it creates wider and more representative constituencies. Sir Steuart Bayley, when Lieutenant-Governor of Bengal, said from his place as President of this Council that a time would come when the Government would find itself in a position to relieve itself partially of the responsibility of making nominations to the large extent which Government did at that time. I think the time has now come, and I hope and trust that Your Honour will see your way to accept this amendment."

The Hon'ble MR. BAKER said:—"There are five amendments now before the Council, all dealing with the constitution of the Corporation. Two of these are identical. They are, the first amendment moved by the Hon'ble Babu Surendranath Banerjee and the one moved by the Hon'ble Babu Boikanta Nath Sen. As these two are the most far-reaching and most sweeping, I will deal with them first. I am bound to say that I think the usual good sense and good judgment of the Hon'ble Babu Surendranath Banerjee must have failed him to some extent when he put forward this very extraordinary proposal. All through the proceedings in connection with the Bill there has never from first to last been any suggestion that the constitution of the Corporation should be altered. Neither the Corporation, nor any of the other bodies who were

[*Mr. Baker.*]

insulted, nor any of the speakers at the various public meetings have suggested that any change should be made in the bodies entitled to send representatives to the Municipality, and the Hon'ble Member will doubtless admit that we would never have heard one word of his proposal now if it had not been for the changes suggested by the Government of India. For, Sir, the real object of this amendment is as clear as the sun at noon-day. The object and the effect of it will be to retain a preponderance of power in the hands of the same class who have the preponderance now. The Hon'ble Member believes, and probably has good ground for believing, that, for instance, if we allot 10 seats to the Presidency Magistrates of Calcutta, the Presidency Magistrates will return gentlemen of the same class as those who are returned at present at Ward elections. There is no sort of resemblance, nor the faintest similarity, between the Justices of the Peace of Bombay and the Presidency Magistrates of Calcutta. In Bombay, there are 572 Justices, of whom 335 are natives and 237 are Europeans and Eurasians. I have made some enquiries from Bombay as to who the Justices are and what their functions are. I find they have two functions and two only. They have the power under the Criminal Procedure Code of attesting documents, and they have the power under the Municipal Act of electing 16 members to the Corporation of Bombay. That is all. They are appointed by Government and the list of them is revised every year. I understand that there is great competition for the office; that the list includes practically every man of light and leading; every man of wealth and position; all the aristocracy throughout the city of Bombay. Every European of good position is put on to the list as a matter of course, and there in not a single member on the Justices' list, who is not a gentleman of high social and personal status. In fact, the Justices' list is a kind of glorified Darbar list. It is certainly not possible to describe the Presidency Magistrates of Calcutta in terms in the least resembling these. I have no intention of saying anything in disparagement of our Magistrates, who are a very deserving body of men, but I am quite certain no one can for one instant place them on anything like the same footing as the Justices of Bombay. In the first place, there are only 87 of them, all told. Of these, 61 are natives, and 26 are Europeans and others, including those who are dead and those who have left Calcutta or are no longer residing even in India. Then, Sir, among the 87 there are two classes which predominate over all others. Among the 87 you will find

no less than 18 who either are or have been Municipal Commissioners of Calcutta, and of the remainder you will find a very large proportion--I cannot say how great—who are lawyers of some kind or another: pleaders, attorneys, and a small sprinkling of barristers-at-law. These two classes taken together would absolutely swamp the elections. Would it not be positively grotesque to assign to a constituency so insignificant in numbers and composed as this is, the right of sending 10 representatives to the Municipal Board, a number nearly as great as the Hon'ble Member proposes to assign to Government itself, and five times as great as he proposes to assign to Trade and Commerce?

"Another innovation which Hon'ble Members have proposed is that two representatives should be elected by the Fellows of the Calcutta University, and the Hon'ble Dr. Asutosh Mukhopadhyaya has touched on the same point, though in a very much more moderate way. It may be the case that the Senate of the Bombay University has some ground for sending two representatives to the Bombay Corporation; but, however that may be, I have very little doubt that the University of Calcutta is not a body which has a good claim to send representatives to the Municipal Board in Calcutta. In the first place, the University of Calcutta is not localised in Calcutta at all. It is an examining body. If it can be said to be localised anywhere, it is localised in those parts of the province in which its affiliated colleges are to be found. The Hon'ble Dr. Asutosh Mukhopadhyaya told us that it governed or regulated education not only in Bengal, but in Assam, in Burma and in Ceylon. I think, Sir, that a body which represents education not in these Provinces only, but over a great part of India, has very little claim *primâ facie* to representation on a purely local Corporation. But there is another argument also. If the University stands for anything, it stands for education. Now, Sir, what has the Calcutta Corporation to do with education? Since 1888 it has been allowed to spend its funds on primary and technical education. What has it done? In the Town proper, it has never spent one farthing from first to last on primary, technical or any other kind of education. In the Suburbs, the area which was added in 1888, it has spent nothing on technical education; it has spent nothing on secondary education: and on primary education it has spent a sum of Rs. 3,000 a year, that being the amount of certain contributions which used to be made by the old Suburban Municipality to primary schools within that area. That is

[*Mr. Baker.*]

all. In fact, the Corporation, for reasons for which I do not blame them in the least, reasons which I hold to be entirely just and sound, have taken no part in educational matters, and have devoted no portion of their funds to educational expenditure. In that case, Sir, I think the body which represents education has no special claim to send members to the Corporation.

"I now turn to the amendment of the Hon'ble Babu Jatra Mohan Sen, which is on the whole a moderate amendment. He proposes to reduce the representatives of the Chamber of Commerce and the Trades Association to 3 each; he would assign 2 seats to the Bengal National Chamber of Commerce, 2 seats to the two Muhammadan Associations, and 2 to the University. The first thing that occurs to one on looking at those proposals is that the one Association in Calcutta which would have a prior claim to special representation, if we were giving any, is left out. I mean the British Indian Association. The Hon'ble Member felt I think the weakness of his position in omitting that body, because he said that it would be for Government to appoint representatives from that Association and from certain others which he named. But if we are going to give in the body of the Act special representation to any additional Association, I think there can be no question that the British Indian Association has the first claim. Then, Sir, I demur strongly to his proposal to reduce by two the representatives of trade and commerce. The number which trade and commerce have had since 1888 is 10, and 10 will only be one-fifth of the whole number of the Commissioners; and considering the enormous extent to which trade and commerce, especially foreign commerce, have created Calcutta, I think that one-fifth is the smallest possible proportion that can be justly given to them. I cannot regard in any way the proposal to give two seats to the Bengal National Chamber of Commerce as within the sphere of practical politics. I have made some attempt to discover what the Bengal National Chamber of Commerce is. I enquired among others of my friend the Hon'ble Mr. Apcar. He was unable to tell me much, and the information he gave me was merely what I had obtained before. As far as I can make out, it is what is ordinarily called a 'one man show.' A gentleman well known and respected in Calcutta, Babu Sita Nath Roy, is the head and front of the Bengal National Chamber of Commerce. I have been unable to ascertain the name of any other leading firm which is a member of it. I am informed that the firm of which my friend Babu Nalin Behari Sircar is a member does not belong to the Bengal National

Chamber of Commerce. I am informed that the firm of Pran Kissen Law & Co., to which Babu Joy Gobind Law belongs, is not a member. All my informants coincide in saying that Babu Sita Nath Roy stands practically alone. Now, Sir, with the greatest possible respect for Babu Sita Nath Roy, it is quite clear that it is absolutely out of the question to assign two seats in the Corporation to him and his nominees.

"With reference to the two Muhammadan Associations which have been mentioned by the Hon'ble Babu Jatra Mohan Sen and the Hon'ble Raja Ranajit Sinha, I hesitate to suggest that any special representation should be given to these two bodies. I have really not very much information about them, but so far as my information goes, there is reason to believe that they are not wholly representative. My hon'ble friends Prince Bakhtyar Shah and Maulvi Delawar Hosain will correct me if I am wrong, but I am told that they do not stand on a very stable or permanent basis. I have heard that their influence among their co-religionists in Calcutta is not always as great as might be wished. I may be wrong in this view, but so long as any doubt remains, it would not be justificable to give special representation to these two Associations. I sympathise on the whole with the various proposals that have been made to cut down the number of representatives to be appointed directly by Government. I have a good deal of sympathy with the view that Government should by degrees divest itself of the duty of appointing representatives of minorities, and I should have been very glad if we could have taken some step in that direction now; but it is evident that in making our selection of Associations for this purpose the most sure-footed caution is necessary. We have to consider all the Associations in existence at the time the legislation is undertaken, and to determine which of them has the best claim to special representation, and I am by no means prepared to say that the various Associations which have been named in these five amendments are the only or the best Associations to which it might be possible to give special representation. The Hon'ble Babu Jatra Mohan Sen referred to the Indian Association. That I think would probably be supported by my hon'ble friend Babu Surendranath Banerjee. Another Association which I think would probably have a good claim is the Anglo-Indian and Eurasian Association. Then we have to bear in mind the fact that when we have made our selection, we have no kind of guarantee as a rule that they will be

[*Mr. Baker; Babu Surendranath Banerjee.*]

permanent. We know that the Public Health Society, which was in existence from 1884 onwards, for some years did a good deal of very useful work, and it appeared for some time to be likely to become permanent. If its now deunot. What would have happened if we bad in the Act of 1888 enacted that the Public Health Society should be entitled to return two members to the Calcutta Corporation? We have no guarantee either that any Association which may be chosen will be permanent, or that it will continue to represent the same interests that it did at the time when it first came into existence. When an Association has been in existence for a considerable number of years,—for several generations,—when it has acquired a definite corporate existence, then the time may come for Government to consider the propriety of mentioning it in an Act of the Legislature; and it seems to me that almost the only Association which would have any claim under that condition is the British Indian Association. The other bodies that have been mentioned, I fear, must stand over until they are considerably older than they are at present. I think therefore, Sir, that all these amendments the Council will act wisely in rejecting, even the very moderate one moved by the Hon'ble Dr. Asutosh Mukhopadhyaya."

The Hon'ble BABU SURENDRANATH BANERJEE in reply said:—"I must be permitted to express my regret at the personal remarks which have been imported into this controversy by the Hon'ble Member in charge of the Bill. He began with the remark that I was wanting in good sense in having put forward a certain amendment. I am not going to reply to that, but would only say that, assuming, which I do not, that I failed in good sense, I soon recovered it in sending notice of a very moderate amendment. My hon'ble friend was pleased to say that my first amendment was an endeavour on my part to retain that preponderance of the Hindu element which it was the object of this Bill to cut down. Suppose, Sir, it was so, ought I to be ashamed of it? Ought it to be brought as an imputation against me? Suppose that, as a representative of the Hindu community from my place in this Legislative Council, I was endeavouring to assert by all lawful means the claims of my community to a preponderant share in municipal representation to which they are entitled, is that a thing of which I ought to be ashamed? It will be a matter of legitimate pride to me that I did my level best in maintaining the preponderance of my community in my native town."

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Apcar.*]

The Hon'ble MR. BAKER said:—"I did not impute it to the Hon'ble Member as a fault. I was explaining the effect of the proposal."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am glad my hon'ble friend does not regard it as a fault. I deprecated the personal remarks that were imported into the discussion. When my hon'ble friend said that the Bengal National Chamber of Commerce was a 'one man show,' I am perfectly certain he could not have made any careful enquiry into the matter. I know something about the Chamber. My hon'ble friend observed that Pran Kissen Law & Co. and Babu Nalin Behari Sircar and others do not belong to this Association. Pran Kissen Law & Co. and Ker Tarruk & Co. are European firms; they are members of the Bengal Chamber of Commerce. Babu Joy Gobind Law, of the firm of Messrs. Pran Kissen Law & Co., was President of the National Chamber of Commerce at one time, and he is a member now. Men like Babus Chundee Lal Singh, Hurry Ram Goerka, and Raja Sew Bux Bogla are members. All the most distinguished merchants of Hatkola are members, and you refuse to recognise them in the Bill, but you have recognised them in the representation of the Port Trust. The National Chamber of Commerce sends a representative to the Port Trust. Would it not be as well that the National Chamber of Commerce should be permitted to send one or two representatives to the Corporation? Then my hon'ble friend the Member in charge of the Bill referred to the Presidency Magistrates, and here again I deprecate the observations which he has made. He said they were not men of the same high social position as the Bombay Justices were. I am a Presidency Magistrate, my friend the Hon'ble Mr. Apcar was a Presidency Magistrate, and I think the best, the most deserving, and the most meritorious men the Government can think of are Presidency Magistrates."

The Hon'ble MR. APCAR said:—"I have resigned."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The Government appoints the Presidency Magistrates, and I think my hon'ble friend is more responsible than any one else for these appointments."

The Hon'ble MR. BAKER said:—"But I am not proposing that they should send members to the Corporation."

[*Babu Surendranath Banerjee; Babu Jatra Mohan Sen; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I wish to point out that the Presidency Magistrates are not men of an inferior status at all. They are men of high standing; they are entrusted with very responsible functions; they are held in honour and esteem by their countrymen, and even if what you said were true, the Government was responsible and nobody else. I would in conclusion make this suggestion. that if the Government is unable at the present moment to see its way to legislate in favour of any particular Association sending representatives to the Corporation, will the Government, when the time of nomination comes, invite particular Associations in an executive fashion to send members to the Corporation, and then, when Government finds that proper and worthy men have been sent, the Government may stereotype that custom by future legislation? We might at any rate make a beginning now the advantage of which our successors may reap."

The Hon'ble BABU JATRA MOHAN SEN in reply said:—"I wish to make only one observation. The Hon'ble Member in charge of the Bill has said that nothing has been spent on education, primary or technical, by the Corporation ever since its establishment. Provisions for primary and technical education have been made in the present Bill, and they existed in the previous law, and they were meant, I doubt not, to be given effect to; but as a matter of fact the Hon'ble Member in charge of the Bill informs us that nothing has been done by the Corporation in that direction. I should contend that that is the very reason why the University should be represented in the Corporation.

These amendments being put together, difficulty will arise as to the vote respect of each amendment. I should, therefore, propose that each amendment as to nomination by each separate body be taken as a separate amendment, so that there may be less chance of conflict between the several amendments. So I would ask Your Honour to take each sub-division of the amendments separately."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA in reply said:—"I should like to offer one or two observations with regard to my motion. I confess I was surprised at the opposition by the Hon'ble Member in charge of the Bill to my motion, which he characterised as a very moderate one. I am not surprised that with his usual acuteness he has brought forward reasons which completely move my case. One of the arguments which he advanced was that the University of Calcutta is not localised in this City. If my hon'ble friend had

[*Dr. Asutosh Mukhopadhyaya; the President.*]

been a Member of the Senate he would have been able to state to the Council that more than half and a little less than two-thirds of the Members of the Senate are residents of this City and its immediate neighbourhood. Besides, the objection which he has urged applies equally to the University of Bombay. The University of Bombay is founded on the model of the University of Calcutta; it is as much an examining body as this University, and it is localised in Bombay. It conducts examinations in English throughout the Bombay Presidency and the Province of Sindh. In the next place the Hon'ble Member in charge of the Bill urges that the Calcutta University has control over education, but what has the Calcutta Municipality to do with education? I refer to section 23A (*now* 14) to prove completely that the Calcutta Municipality has or ought to have something to do with education. I have not seen in the notice of amendments any proposed motion by the Hon'ble Member in charge of the Bill that those clauses should be omitted. If they are to stand there, I submit it is not a legitimate argument to say that the Calcutta Municipality has nothing to do with education. Then it is said that the Calcutta Municipality has never spent a farthing for primary or technical education. That is precisely my complaint. I do not know whether it is true; but, accepting that statement, I say that it ought not to be so, and that that state of things will be remedied if the Calcutta University can send a man to the Corporation who has studied the educational problems of the day. Then; in, the last place, the Hon'ble Member suggested that many of the Associations he referred to are not permanent bodies. I do not know whether he intended to include under the term 'Association' the University of Calcutta, but I hope that the University of Calcutta is as permanent as any other body in this country."

The Hon'ble THE PRESIDENT said:—"The Council will remember that there are three interests to be represented in the Corporation: one is the body of rate-payers, second, trade and commerce, and the third is the Government. To the rate-payers have been assigned 25 representatives; to trade and commerce have been assigned 10, and I agree with the Hon'ble Member in charge of the Bill that from that number there can be no possible reduction. Lastly there remains the Government, which has got 15 representatives. The Government, as you will all admit, has very important interests in Calcutta, and out of these 15 representatives it has to secure not only its own interests in the city, but the interests of minorities. Now it was very forcibly argued in the course of one of these debates that the effect of the reduction of the ward

[*The President.*]

representatives would be to leave altogether unrepresented some of the minorities who meanwhile find representation there. Therefore, whatever sympathy the Government may have in the claims of Associations of various kinds to find representation in the Corporation, the Government must be careful to see what the result of these changes is. It has to consider and protect the claims of minorities, and, until it knows what the minorities are that are not represented, it can go no further in the direction of assignment of seats to Associations. The Hon'ble Member in charge of the Bill has said perfectly truly that all Governments are anxious to be assisted in their responsibility in the selection representation. That has been the tendency and attitude of Government for a long time, and what we can do in that way we shall do; but on this amendment I must guard myself by making no promises of any kind."

The Hon'ble BABU JATRA MOHAN SEN's amendment (No. 31) was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE's first amendment (No. 34) as then put and lost.

The Hon'ble BABU BOIKANTA NATH SEN's amendment (No. 36) was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA's amendment (No. 37) being put, the Council divided as follows:—

Ayes 5.

The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Babu Boikanta Nath Sen.
The Hon'ble Dr. Asutosh Mukhopadhyaya.
The Hon'ble Mr. Apcar.
The Hon'ble Babu Jatra Mohan Sen.

Noes 12.

The Hon'ble Mr. Mackenzie.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Mr. Spink.
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
The Hon'ble Mr. Slack.
The Hon'ble Mr. Handley.
The Hon'ble Mr. Buckland.
The Hon'ble Rai Durga Gati Banerjee Bahadur.
The Hon'ble Mr. Baker.
The Hon'ble Mr. Bolton.
The Hon'ble Mr. Buckley.
The Hon'ble Mr. Oldham.

So the amendment was lost.

[*The President; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble RAJA RANAJIT SINHA BAHADUR'S amendment (No. 2 in the supplementary list) was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE'S second amendment* being put, the Council divided as follows:—

Ayes 4.	*Noes 13.*
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Apcar.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Spink.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Slack.
	The Hon'ble Mr. Handley.
	The Hon'ble Mr. Buckland.
	The Hon'ble Rai Durga Gati Banerjea Bahadur.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Buckley.
	The Hon'ble Mr. Oldham.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, then withdrew the motion (amendment No. 38), standing in his name, that in sub-section (*3*) of section 7 (*now* 8), line 3, "(*c*) and (*d*)" be substituted for "and (*c*)".

The Hon'ble THE PRESIDENT ruled the following motions, standing in the name of the Hon'ble Babu Surendranath Banerjee, to be out of order:—

(*1*) (amendment No. 32) that the word "Fifty" be substituted for the words "Twenty-five" in line 1 of section 7 (*now* 8);

(*2*) (amendment No. 33) if the above amendment be lost, and if the amendment† substituting the word "sixty" for the word "fifty" in line 2 of section 6 be carried, that the following be added to section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)]:—

"(*e*) eight by the Presidency Magistrates of Calcutta;

"(*f*) two by the Fellows of the University."

* Printed on page 297, *ante*.

† Printed on page 288, *ante*.

[*The President.*]

The Hon'ble THE PRESIDENT also ruled the following motion (amendment No. 35), standing in the name of the Hon'ble Babu Boikanta Nath Sen, to be out of order:—

That "Fifty" be substituted for "Twenty-five" in section 7 (*now* 8), sub-section (*1*).

SECTION 9.

The Hon'ble THE PRESIDENT also ruled the following motions, standing in the name of the Hon'ble Mr. Apcar, to be out of order:—

(*1*) (amendment No. 40) that in section 8 (*now* 9), clause (*a*), for the word "four" the word "six" be substituted;

(*2*) (amendment No. 41) that in section 8 (*now* 9), clause (*b*), for the word "four" the word "six" be substituted, and for the words "clauses (*a*), (*b*), (*c*) and (*d*)" the words "sub-section (*1a*)" [*now* sub-section (*2*)] be substituted;

(*3*) (amendment No. 42) that in section 8 (*now* 9), clause (*c*), for the word "four" the word "two" be substituted.

The Hon'ble THE PRESIDENT also ruled the following motion, standing in the name of the Hon'ble Babu Jatra Mohan Sen, to be out of order:—

(amendment No. 43) that the following amendments be made in section 8 (*now* 9), namely:—

(*1*) in sub-section (*2*), clause (*a*), substitute "six" for "four;"

(*2*) for clauses (*b*) and (*c*) substitute "and, of the remaining six, four shall be elected by the Commissioners appointed by the different bodies, and two by the Local Government."

The Council was then adjourned to Monday, the 11th September, 1899.

CALCUTTA;
The 20th November, 1899.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal, Legislative Department.

Reg. No 562G—300—24-11-99.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met at the Council Chamber on Monday, the 11th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. F. HANDLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble Mr. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

CALCUTTA MUNICIPAL BILL.

The Hon'ble THE PRESIDENT said:—"We will now proceed with the discussion upon the amendments to section 8 (*now* 9),* taking first No. 39, standing in the Hon'ble Mr. Apcar's name."

SECTION 9.

The Hon'ble MR. APCAR moved (amendment No. 39) that in section 8 (*now* 9), sub-section (*1*), the words from and including "and the Chairman" to the end of the sub-section be omitted. He said:—"I propose that in this

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

section the Chairman, who is the *ex officio* head of the executive, should not be the *ex officio* President of the General Committee.

"My first reason for moving this amendment is that there are appeals allowed, under this Bill, from decisions of the Chairman to the General Committee, and I think it is not right that, in these circumstances, the Chairman, from whose decisions the appeals lie, should be the President of the tribunal before whom the appeals would come. Then, again, I think that the head of the executive ought not to be the President of the General Committee. Now, the General Committee has been constituted to control the finances; and, in this way, by controlling the finances, the General Committee will be able to control the executive where their action depends upon expenditure. In nine cases out of ten, questions coming before the General Committee will be with reference to matters affecting the executive; and here again I think it inadvisable that the head of the executive should be the President of a body which will be considering these questions. It seems to me that the lessons which have been learnt in Bombay have been lost here. In Bombay, before the present Act came into force there, the Chairman was allowed to have a large measure of power as the head of the executive, and the Corporation there existed in a condition of suspended animation immediately after the Budget was passed. The head of the executive was permitted the control of the finances, and in the result the Corporation became bankrupt, and they had to conceive some new constitution in order to prevent any recurrence of the mischief which had occurred, and it was in these circumstances that they devised the scheme of three co-ordinate authorities, and the head of the executive was made an independent authority with independent powers in regard to a great many matters; and the Standing Committee, which answers there to the General Committee in this Bill, was designed for the purpose of controlling and checking the executive in regard to financial matters principally. Here the financial control in some questions is given to the head of the executive, in large questions it remains with the General Committee; but the head of the executive is allowed to preside over the deliberations of the General Committee, and so the balance of power becomes shifted. Now, in separating these functions, we do not in any way touch what we have been told is the main purpose of the Government, and that is to give absolute powers to the Chairman in regard to certain questions. The Chairman's executive functions are in no way interfered with,

[*Mr. Apcar.*]

and will retain all the full powers with which he has been vested under the Bill. If there is a change on the lines I have indicated, I submit that it will not conflict with the general object of the Bill. Whereas in Bombay, the three co-ordinate authorities do answer to the description of being co-ordinate, here, in this Bill, we have varied that. The head of the executive, corresponding to the Municipal Commissioner in Bombay, is allowed, under this Bill, as far as we have proceeded, to be the Chairman of the Corporation; and now we come to consider, whether he is also to become the Chairman of the General Committee. If he is to have the controlling authority of presiding over the deliberations and proceedings of both the Corporation and the General Committee, then his position is not that of a co-ordinate authority, but he is to be a superior authority in regard to all the questions which may arise, because there is no doubt that there is a good deal of power in the Chairman of a meeting in controlling the discussions, and particularly so in municipal meetings, where discussion proceeds on statements that are made by the Chairman. I do not say that he will do so intentionally, but it may happen, because he has taken certain views on a question, that he will place before the meeting such materials only as will be favourable to his own views, without considering that there may be other materials which ought to be considered and which would not support his views. Therefore, it is very necessary to have an independent person in the position of Chairman, so as to enable the members of the Committee over which he is presiding to form an independent opinion as it were, an opinion independent of the Chairman. If the Chairman has to control and place before the General Committee such materials only as he thinks relevant, I submit it is not really an independent opinion which will be formed by the General Committee; and there is no doubt that in these circumstances the position will be very unsatisfactory. In our own experience, when we have had a new officer coming as Chairman, we have found that he necessarily, from the nature of things, depends in a large measure upon the heads of departments, and it comes to this, that the real controlling authority in regard to each department is the head of that department, and the Chairman, who depends upon the heads of departments to a great extent, is merely the mouthpiece of the heads of departments. No business in the world can be carried on profitably with supervision and control

of such a character over its spending department. When there is opposition in Committee to the Chairman I have very often noticed that it is due to the view that the Chairman is simply the mouthpiece of the spending department, and is not exercising an independent opinion of his own. My contention therefore is this, that if you have a President chosen from amongst their own body by the General Committee, you will have some one who is experienced in the ways of the administration, who knows the history of the questions that come before it, and who has been in the Corporation for some time. We know that year after year the leading Commissioners, those who take the most interest in the municipal administration of the town, continue to be elected to the General Committee. I know from my personal knowledge that there has been in the General Committee the same group of about eight or ten Commissioners, who have been continuously there for about ten years, and some who have been there for a great many more years. My hon'ble friend to my left (Babu Surendranath Banerjee) informs me that he has been there for twenty-three years, and he knows of others who have been there longer. So that you have a body of persons possessing knowledge of municipal matters of a character which will be of the most useful kind, and who will be at the service of the Committee; and when we have independent men like these available in regard to matters which are brought forward, I think it is entirely to the advantage of the administration that they should be made eligible for the Chairmanship. With regard to the Executive, there is too much reliance placed by young Chairmen upon the Executive of the municipality, and it has worked to our disadvantage. I propose to give instances in support of my statement, for I do not bring forward a single point that I am not prepared to support with illustrations, the facts of which are undeniable. I am glad of the presence of the Hon'ble Mr. Buckley, for he is an authority on all questions affecting the Engineering Department, and I ask his particular attention to what I am about to say. I should first explain, in order to make what I have to say intelligible, that the ordinary routine of business, in respect of works to be executed by the engineer's department, is first for a work to be sanctioned, then for the departmental estimates to be sanctioned, and thereafter for the tenders to be called for on approved specifications. Now it has happened, not once or twice, but within the last three years—and I say what I wish to be taken literally—there have been scores of instances in which tenders have been

[*Mr. Apcar.*]

submitted by the Chairman to the General Committee, although no estimates have been submitted for sanction at all; and the General Committee, who are so much blamed for obstructing the Executive, relying on the Chairman keeping to the regular order of business, and under the impression that the estimates relating to the tender had been scrutinised and passed by them, have accepted tenders, although no estimates had been before them. Now, if there is blame thrown upon the Commissioners for not having exercised a proper check—for we sometimes are blamed for interfering with the Executive, at other times for not having exercised a proper check—I would reply, you cannot have it both ways. Either you must admit it is necessary for the Commissioners to see that the Executive do their work and how they do their work, or you must cease to blame them for not having done so. In most instances they accept the action of the Chairman as to everything being rightly done. In connection with works having been undertaken without even being sanctioned—and, in this connection, I shall refer to what has happened within the knowledge of the Hon'ble Mr. Buckley—there is the great suburban drainage scheme, which is to cost us an immense sum of money. A certain scheme was sanctioned, and there were certain tenders in regard to parts of it submitted, which were taken to be in reference to the scheme which had been already sanctioned, and, in accordance with the advice of the Executive, they were accepted. But, after the works had progressed for some time, it came to the knowledge of one of the Commissioners that with regard to one portion it was altogether a new scheme, and that with regard to another portion of it there had been material alterations made, and he [illegible] to draw attention to the subject. It was a large work, which required not merely the sanction of the Commissioners, but also the sanction of the Government, and it was found that this scheme had not got the sanction of the Corporation and had not even got the sanction of the Government, and, although some portion of the works are under progress, other portions have been stopped by the Government, because sanction to them has not been obtained. And I must not omit to tell you that the work on the drainage scheme was commenced two years ago. How is it that this came about, that these immense alterations should have been taken in hand without sanction, and that tenders should have been called for for unsanctioned work and accepted? Why, partly because Chairmen have been continually changed; schemes have been sanctioned under one Chairman, and then a new Chairman has come who has not known

what has been done and has accepted everything placed before him by the Engineer, or suggested by him as right; and the Commissioners have been willing to accept whatever the Chairman puts forward for sanction, as having been through the regular business routine, and as only requiring their consideration on the materials placed before them. I must explain: when tenders are submitted for acceptance, the material before the Commissioners is a note by the Engineer, comparing the several tenders received; and the Commissioners, believing all matters had been rightly done, have had regard only to the comparisons of the tenders placed before them, and have generally followed the recommendations of the Executive, and have generally accepted the lowest tender. These are familiar instances, and many are conversant with them. If it had not been that I accidentally discovered the divergence from the sanctioned scheme, the whole of the drainage project would have been completed, and many lakhs of rupees would have been paid on a scheme that had never received the sanction of the Commissioners, and had not been approved by the Government. It may have been discovered after the whole system had been completed, in consequence, perhaps, of a complete failure, and would have been instanced, when the details of the subject could not have been checked, as demonstrating the incapacity of the Commissioners, when they were the least to be blamed of the three parties concerned—the execu tive, the Government and themselves. With reference to this I have myself put in writing what I had to say in regard to it, in order to obtain a proper explanation on the subject: this was in January, and it was not till May that there was any attempt to answer these and other matters as mentioned in certain notes which I placed on record. And from one of these notes I shall read an extract to show how the Engineer actually had his statement of the changes from the sanctioned plan printed at the Municipal Press, but, by reason of the measures he adopted, he prevented the circulation of his note for the information of the Commissioners, to whom he was bound to submit it. The memorandum from which I am going to read is dated the 13th of March last:—

'The Engineer's note, dated the 23rd of February, 1897, as I have mentioned in my previous memorandum, dated 25th of January last, states the changes from the sanctioned plan. This note has a very curious history attaching to it. It was printed by order of the Engineer in our Municipal Printing Press, and sent, not to the Secretary, as had been the invariable practice before, but, by order of the Engineer, back to himself. Its existence was

unknown to the Secretary and, of course, it was not circulated among the Commissioners. The measure that the Engineer took secured this result. When the Vice-Chairman received the bills relating to Contract No. III, passed by the Engineer for payment, he was unable to understand them, and, after some trouble, the note in question was discovered, so late as the 29th of December, 1897, to be with the Engineer. I am assured by our Secretariat Officers that the course adopted by the Engineer in requiring the copies of his "Note" when printed to be sent to him is absolutely unprecedented, and the incident under notice has led the Secretary to issue a strict order to the printer in future to send all printed matter to his office. I find that the "Note" has not even yet been circulated.'

"The extract speaks for itself. No notice of it was taken until May last, and I particularly ask the Council's attention to the terms of the explanation in this most important matter:—

'Contrary to practice, the Printing Department seems to have sent the note straight back to the Engineer instead of through the Secretary's Office. In December, 1897, it was discovered that no copies were in the office, and the note was then searched for and finally received from the Engineer's Department in January, 1899.

'It was apparently not circulated to the Commissioners in March, 1897, as it was not in the Secretary's office.

'As far as can be ascertained at this distance of time, the note was sent to Government on the 13th July, 1897, with the tender and specification. I produce the covering letter. Sanction to the project as then sent up was received from Government in their No. 4209M., dated the 16th August, 1897. I produce this letter. As it appeared to me likely that Government had not realised that the scheme had been changed, I submitted it again for sanction, and have, in reply, received an exhaustive note from the Hon'ble Mr. Buckley, which is herewith circulated.'

"If there was the semblance of effective supervision and control exercised by the Chairman over the Engineer, the latter should have been sharply called to account. I am not aware whether the Chairman has said anything to the Engineer for such an extraordinary and objectionable proceeding as I have referred to; but I know this, that the question in regard to the conduct of the Engineer was not brought before us, and, so far as I know, the Engineer has not been held to blame. How is it that the Government gave their sanction? I have not seen the letter which purported to give sanction, but I have heard that a letter came back from the Local Government, approving of the tender which, however, they themselves take care to say was with reference to a scheme which had already been sanctioned. It is open to me to say that if Government expert advisers can be led to give their sanction in this way, I do not think

[*Mr. Apcar.*]

that the Commissioners, who are laymen, can be blamed when tenders are set up with reference to a scheme which, in fact, has not been sanctioned by them, and they on their part are led to give their sanction to it. It seems very strange that it was not pointed out, when the Government reply was received, that the tender was not for the scheme that had been sanctioned. Here was this business done in this very unbusiness-like way, and this gives force to my contention that those who have become experts in these matters would be more likely to control them if placed in the chair, than a Chairman who is new to the office and who has to depend upon the heads of departments for information and guidance. I do not wish to blame the Chairman; it is natural that he should depend upon his subordinates when he is inexperienced, more than he should otherwise do; but it is to the prejudice of the administration, and it is for this that we are forced to appoint Committees, in order to exercise a proper check over our great spending departments. If there was a proper investigation and enquiry, the facts that would come out regarding the ways of the executive, even with the supervision that we can exercise, would be appalling. What the consequences will be when the executive have a free hand is beyond the limits of my imagination. I can only briefly refer to one or two points in this discussion. I will take the question of the Town Hall, in connection with which we were forced into an enquiry. I know we have been blamed in regard to the matter, but I can only refer very generally to the subject. It was incredible what was done, and it was because we were careful of the interests of the rate-payers that we set the enquiry on foot. This enquiry was of such a character that it required the examination of the Engineer's Department in regard to the work done, and charges and rates sanctioned by that Department; and the Chairman was so ill-advised as to what had been done that so far back as 1897 he drew up a report accepting as correct practically all that had been done and everything told him by the Engineer's Department. But there were some of us who knew what was being done, among whom was one of the most industrious members of the Corporation, the son of a most distinguished and brilliant member of this Legislature many years ago, and he undertook a close investigation into the facts, and that investigation was of such a character that the Chairman was forced to admit that the whole report would have to be withdrawn. It was shown that the Engineer's Department had passed for payment sums in excess amounting to at least Rs. 18,000, while the Engineer's Department were protesting that there was an excess of only Rs. 500! I will give you one

[*Mr. Apcar.*]

item in the enquiry, and it is of a character which you can easily understand. There was a question of an architrave of the south porch of the Town Hall. The rate was Rs. 5-12 per running foot for a certain quantity of material; more was required; a bill was submitted at the rate of Rs. 16, and the Engineer's Department described the difference as being only 4 annas: on enquiry it was discovered that the rate mentioned was per cwt., while the original rate had been per running foot, and when reduced to a common denomination the rate really was at Rs. 43-12, in this one item there was a difference of Rs. 5,000! I wish to make it clear that I do not wish to cast a shadow of a reflection on the contractors. My sole pupose is to bring into relief that when the Engineer's Department was representing that the excess amount as passed for payment by them was only Rs. 500, in one item only we found that the excess was Rs. 5,000. All this ought to make us very anxious how we accept anything that is done by the Engineering Department without close scrutiny, but the Chairman is ready to accept their statements. These conditions have made it imperative on the Commissioners to institute enquiries on occasions. That they should have done so ought to have been the subject not of censure, but of praise. And yet this is one of the principal grounds on which this Bill has been formulated.

"I will give you another instance. It is a question in regard to several tenders, some of which were not submitted to the Commissioners. Seven tenders were submitted to the General Committee by the Chairman. I do not in the slightest degree attach blame to him in reference to this. The Chairman accepted what the Engineer had submitted. The General Committee accepted the lowest tender out of those that were submitted to them. I got some information in regard to the matter, and made enquiries, and I found that there were nine tenders, and that one of the two tenders not placed before the General Committee was the lowest of the nine that had been received. I do not want to multiply instances, but I think I have given enough to make the Council pause, and not be so ready to attach blame to the Commissioners as many are so willing to do.

"Then with regard to the way in which contracts are accepted. We have an instance in regard to some in connection with the Suburban Drainage Scheme now in progress, in regard to which it was stated that there was a difference between certain tenders and the revised estimate

of only Rs. 15,000. The Vice-Chairman in his scrutiny showed that there was a difference of over a lakh of rupees. These intances show the undoubted need there exists for careful scrutiny in all matters which involve large expenditure. The Vice-Chairman submitted a series of notes in reference to certain items, and in every item it was shown that the amounts found by the Engineer varied from the tender. How do you suppose the Engineer met these statements which had been made? He said this in his printed reply:—

'I find it very difficult to find dignified language in which to frame this reply. I shall strictly confine myself to facts, stated in the briefest possible terms, and, as far as possible, leave the Committee to apply the necessary adjectives to the tone and character of the paper under reply and to the administrative anarchy it has produced in the municipal administration and the waste of time it has caused to the Commissioners.'

'In paragraphs Nos. 1 to 10 a statement is made that the provisions of the specification have not been enforced in ten items.

'All I have to say in reply to this statement is to ask the Committee to request the Vice-Chairman to say whom he got his information from. The work has been carried out to my satisfaction, and I consider it to be highly creditable to the contractors and the Corporation. The Vice-Chairman in these statements is travelling beyond the province of an accounts officer and dealing with matter he does not understand, and I assume that the Commissioners will take this view. Mr. Mandy will attend the Committee, and give any further information which may be required.'"

"Then he finishes off by suggesting certain rules in accordance with which the Vice-Chairman should do his duty. A very haughty line for our Spending Department to take. Is it not throwing dust in our eyes? Under these circumstances, when I give instance after instance of the system that gives us official Chairmen breaking down, and illustrations to show that the Executive are not to be trusted, I submit that where it is natural for the head of the Executive to be more or less a partisan of those who are working under him, it is undesirable that the head of the Executive should also be the Chairman of the Finance Committee."

The Hon'ble MR. BAKER said:—"The Council will see that this amendment is supplemented by another amendment, No. 53,* which also stands in the name of the Hon'ble Mr. Apcar, the object of which is to enable the General Committee to appoint their own President from amongst their own members. I do not think it will be necessary for me to take up the time of the Council at

* Printed on page 340, *post*.

[*Mr. Baker.*]

any great length in reply, because I imagine that the fate of this amendment and of the supplementary one was practically settled last Saturday, when the Council resolved to reject the Bombay system by which the head of the executive is distinct from the President of the Corporation, and resolved instead to adhere to the system with which we have been familiar in Calcutta for so many years. For if the Chairman is to be President of the Corporation, it follows *à fortiori* that he must also be President of the General Committee. That is the working body, the Cabinet Council of the Corporation. The Corporation has only to meet once in two months; it will only deal with large issues and settle broad questions of policy. It will have little or nothing to do with executive matters of detail. Now in the General Committee all this is totally different. The volume of the work which will devolve upon the General Committee will be enormous. It will have to deal with an immense number of matters of detail, many of which are of an intricate character. It is just conceivable that an honorary President might be found who could attend to the business of the Corporation, and make himself tolerably familiar with the few large matters of business with which that body deals. But on the General Committee I believe that to be utterly impossible. The knowledge of the town which the Chairman necessarily possesses, his acquaintance with the details of the business to be done, and all the technicalities of municipal administration, are so much greater than that which is possessed by any other member of the General Committee, that all of them will trust and rightly and naturally look to him for guidance and advice. He would certainly have to attend at all meetings of the General Committee; and, if he does attend them, it is anomalous and inconsistent that he should attend in any other capacity than that of President of that Committee.

"The hon'ble mover of the amendment has referred in the first part of his speech to the fact that the General Committee is to hear appeals from the orders of the Chairman, and he submitted that it was wrong and improper that he should preside over that body to hear appeals against his own orders. Well I think, in the first place, there are not a few precedents in which a judicial officer does form a member of an appellate body which hears appeals from his own decisions. Cases of that kind will be found in the House of Lords in England, and I believe also in the High Courts in this country. But I do not wish to lay any particular stress upon that, because we have no

intention whatever of affirming that the Chairman shall assist in hearing appeals against his own orders. If the Council will look at section 88 (*now* 95) of the Bill, they will see that the General Committee has the power to appoint Sub-Committees, Committees supplementary to the General Committee, and to delegate to them any or all of its duties and powers; and the intention is that one of these Sub-Committees shall be a Sub-Committee for appeals. All appeals from the orders of the Chairman will be heard by this Sub-Committee, and of that Sub-Committee the Chairman will not be a member.

"Then the hon'ble mover of the amendment said that a new Chairman would have to depend upon the heads of departments, and that if the General Committee were permitted to choose their own Chairman from amongst their own body, then, as the members of the General Committee usually go on from year to year, the President would always obtain a certain amount of experience before he filled the chair; and he gave certain instances to show that a new Chairman had in certain instances been relying on their guidance. I think he referred to the case of the Suburban Drainage scheme, in which certain alterations were made in the scheme which were not sanctioned by the Government; and he also said that certain tenders had been accepted, although the sanction of the Government had not been obtained. In the first place, I would point out that as the members of the General Committee go on from year to year, it follows that whoever the President may be of that Committee, he will have the benefit of their guidance and experience in every case, and in the cases to which the hon'ble mover of the amendment referred, it so happened that this was the very thing which occurred. In the case of the Suburban Drainage scheme, the tenders were accepted by the General Committee notwithstanding their accumulated knowledge and experience. In any case the error which had been committed was detected by a member of the General Committee, whose experience was at the service of the Committee throughout, and whose experience would continue to be available under this Bill. Similarly, in the case of the Town Hall. There was a very serious irregularity in the proceedings of the Engineer's Department in connection with the Town Hall. This happened long before the present Chairman assumed office, and I understood the Hon'ble Member to say he did not blame the Chairman in any way concerning that. But here again we have the fact that tenders which were irregularly accepted, were accepted and passed by the experienced members

[*Mr. Baker; Babu Surendranath Banerjee.*]

of the General Committee to whom the Hon'ble Member has alluded; and we have the further fact that the ultimate discovery of the irregularity was also brought to light by a member of the General Committee, notwithstanding the fact that the Chairman was President of that Committee. I cannot understand how the Hon'ble Member's arguments tend to show that the appointment of a non-official or honorary President would check all these irregularities. If these irregularities have occurred in spite of there being a whole-time Chairman, and in spite of the experience of members of the General Committee, why does he think they would not have occurred if one of these trained members had happened to be in the chair? I hope the Council will reject this amendment without further discussion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am free to admit that the tendency and the tone of the discussion which has taken place in this Council and the trend of opinion here are distinctly adverse to my hon'ble friend's amendment; but all the same I am not prepared to accept the views put forward by the Hon'ble Member in charge of the Bill, that inasmuch as the Council has decided that the Corporation is not to appoint a Chairman, therefore the Council has in a manner anticipated another principle connected with it, *viz.*, that the General Committee is not to elect its own Chairman. I think the two cases stand altogether upon a different footing. The Corporation may not have the power to elect its own President, but the General Committee may have the power to do so. The two cases, as I have remarked, stand altogether upon a different footing, and the acceptance of my hon'ble friend's amendment would not be at all inconsistent with the vote at which the Council has already arrived in regard to the other matter. The Hon'ble Member in charge of the Bill has been good enough to say that, if the Chairman is to be President of the Corporation, he must also be President of the General Committee. I confess I am unable to follow him in this line of argument. In the Bombay Corporation the President of the Corporation is not the President of the General Committee. The two persons are altogether separate and distinct. I know, as a matter of fact, that the President of the Corporation at Bombay is not necessarily or usually the President of the General Committee. The President of the General Committee is a very hard-worked individual, and is altogether separate from the gentleman who presides over the deliberations of the Corporation. It has been said by the Hon'ble

[*Babu Surendranath Banerjee.*]

Member that the volume of work to be done by the General Committee is enormous, and that the time of the Chairman is to be devoted to this work; but that seems to be a reason why the Chairman should be relieved of the responsibility of presiding over the deliberations of that Committee. If you look at the details of the Bill, you will have some idea of the amount of work that has been thrown upon the shoulders of the General Committee. That process has gone on to such an extent that I think the Government of India has somewhere made the remark that the General Committee has been saddled and fearfully over-weighted with multifarious duties. That being so, it is desirable that the Chairman should not with his own multifarious duties be also made the President of the General Committee, which has multifarious duties of its own to perform. Speaking from my own experience of municipal work, I must confess that it would be almost a matter of impossibility for the General Committee to go through the vast mass of work imposed upon that Committee, and I must also express my serious apprehension as to the possibility of the Chairman being able to do justice to his various duties. If I am right in this assumption,—and I am speaking with some authority in the matter,—and I am entitled to speak with greater authority in this matter than others who have never been on the Committee,—then it is our duty, in order that the General Committee might not break down under the weight of these duties, and that the Chairman might also not break down, to completely sever the functions of the General Committee from the functions of the Chairman, that is to say, they ought not to be associated in performing their respective functions, but to allow the Chairman full time to do his own particular duties. Will he have the time to do justice to his own work under the new Bill? I do not think so. Therefore, apart from the question of principle, because the question of principle has been decided adverse to us—apart from it, I confine my attention to administrative considerations. You are, most of you, experienced administrators. I am not an administrator, but I have some knowledge of municipal business, and I put it to you, in all seriousness, that, having regard to these multifarious duties of the Chairman and the General Committee, is it desirable, on grounds of administrative efficiency, to practically amalgamate the two together by making the Chairman of the Corporation the President of the General Committee? I think you will find, although I am no prophet, that the system will not work, and I believe this will be the verdict of most people. That being the case, if the system will not work, if there is a reasonable probability

that it is likely to break down, it is our duty to make an arrangement which will prevent such a calamity, for it will be a calamity if in the course of a few years it becomes necessary to revise the law which we are now passing. For all these reasons, I submit that we ought to accept the amendment of my hon'ble friend Mr. Apcar.

"Only one or two observations more, as I do not wish to detain the Council any longer. My hon'ble friend Mr. Baker has observed that the knowledge of the Chairman in regard to details is very great, and that knowledge it is necessary the General Committee should possess. My friend Mr. Apcar's motion does not stand in the way of the necessary information being furnished to the General Committee, as he has given notice of a motion that the Chairman may attend any meeting of the General Committee and place at the disposal of the Committee any information he may possess. Therefore, it will be open to him at these meetings to place before the General Committee any information which he may think necessary. I think that, that being the state of things, it is not necessary that the Chairman should be also President of the General Committee. Further, the law provides for many cases in which appeals against the orders of the Chairman will lie to the General Committee, and if he is to be the President of the Committee, he becomes a Judge in his own cause. My hon'ble friend referred to some precedents of the High Court, but I understand that it is only in Full Bench cases that the Judge is allowed to sit in appeal with other Judges in cases tried by him. But whatever may be the case in the High Court, I think it is repugnant to our elementary principles of justice that any man should have any voice in appeals from his own orders. No satisfactory answer has been given by my hon'ble friend in regard to this part of the case. Therefore, having regard to all these considerations, I desire to record my vote in support of my friend's amendment."

The Hon'ble Mr. Buckley said:—"The Hon'ble Mr. Apcar, in the course of his arguments on his amendment, referred to my knowledge of certain circumstances in connection with the drainage works, and he argued from them that those circumstances tended to show that it is undesirable that the Chairman of the Corporation should be also Chairman of the General Committee. I will not follow the Hon'ble Member into the details of the instances to which he has referred, and by which he illustrated his views,

further than to say that I quite admit that there is a good deal of substance in some of his arguments. But these circumstances, to my mind, lead to an entirely opposite conclusion to that which he has drawn from them. I do not say that they show, in themselves, that it is desirable that the Chairman of the Corporation should be also Chairman of the General Committee: but what they do show, to my mind, very clearly, is, that the system upon which the present Act is framed, and upon which the Municipality works, is a system of extreme centralization. In every direction the action of the Corporation, and of their Committees, makes effective work almost an impossibility. The particular instances which the Hon'ble Member has so fully detailed tend, I think, to show the absolute impossibility of any one man effectively carrying on the enormous mass of detail work thrown upon the Chairman and the Engineer. I do not speak without some experience, as I was for many months the Engineer to the Corporation, and I came away with the feeling of the utter hopelessness of the Engineer ever being able to do justice, not only to the great questions which were before him, but, what is perhaps of hardly less importance, to the many petty questions and petty works affecting the comfort of the people that he has to decide, and which can only be decided in the most perfunctory and unsatisfactory way. What the Corporation needs is decentralisation in every shape, and this Bill, I think, affords the necessary scope for this. The power of decentralisation between the Corporation, the General Committee and the Chairman and the several Sub-Committees, if it is really carried out, will effect an enormous improvement. This brings me to some remarks which were made by the Hon'ble Babu Surendranath Banerjee. He spoke of the impossibility of the Chairman being able to perform the duties which would devolve upon him under this Bill. The Chairman, according to a statement* which has been submitted to the Council, has 429 duties laid upon him by the different sections of the Bill. Under section 26 (*now* 18) he is forbidden to delegate his authority under only 61 of those sections, so that in more than 360 out of 429 cases he can delegate his duties and powers to lower authority if he thinks fit. The same thing applies to the General Committee. The General Committee have 203 distinct duties imposed upon them by certain sections of the Bill, and there is no restriction, so far as I can see, in the way of their delegating any of these duties to Sub-Committees; and by that delegation they get rid of a good deal of trouble and difficulty which now

* Printed in Paper No. 37 relating to the Bill.

prevails. Nothing was more remarkable in the course of the consideration of this Bill in the Select Committee than the intense desire of the members of the Select Committee, who represented the Corporation, to centralise and centralise. They would allow nobody to have power in any matter if they could place that power with some higher authority. My experience is that the lower down the scale you give authority, with efficient supervision, the more you will benefit the people."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I be permitted to offer one observation with reference to the question of centralisation? Our reason for centralisation is the profound distrust we have of the honesty and integrity of the underlings of the Municipality, and that is really the reason which underlies the great desire for centralisation which has been manifest in the proceedings of the Corporation."

The Hon'ble MR. BOLTON said:—"I think my hon'ble friend the Member in charge of the Bill has sufficiently answered the Hon'ble Mr. Apcar, but I rise to make a few remarks, chiefly with reference to what has fallen from the Hon'ble Babu Surendranath Banerjee. The Hon'ble Mr. Apcar has alluded to the appeal work of the General Committee, with reference to which it may be desirable that the Chairman should not preside over the General Committee; but the disposal of appeals forms a very small part of the work of the General Committee. There is, besides, a very large amount of administrative work which it has to perform, and it is manifest that, unless the Chairman is a member of the Committee, it could not accomplish more than a fraction of the work which it would have to get through. If the Chairman were not on the General Committee, it would be necessary, in a number of matters, for him to attend personally, or to submit lengthy notes, prepared by himself or his officers; and obviously great delay would be caused. The arrangement under the Bill is that there should be three co-ordinate authorities, the Chairman, the General Committee, and the Corporation. Appeals from the Chairman will go to the General Committee, and from the General Committee to the Corporation in certain matters. The Chairman will have a place in the General Committee and will be able personally to answer and explain matters, and he and the General Committee will be gathered up into the Corporation, where explanations from them could also be personally given. That, I think, is an arrangement which

will facilitate the transaction of business. The Hon'ble Babu Surendranath Banerjee observed that the duties of the General Committee and of the Chairman, respectively, will be so onerous, that it is advisable to have a separate Chairman of the Committee, in order that the Chairman may be left freer for his own work. From what I have just stated, however, it is clear that the work of both the Chairman and the General Committee will be increased if they are not associated together, on account of the obligation of the Chairman to submit written explanations and the difficulty which the General Committee would often experience in coming to decisions on them in his absence. The Hon'ble Babu Surendranath Banerjee also observed that the Hon'ble Mr. Baker had not answered the point raised by the Hon'ble Mr. Apcar that the Chairman would be judge in his own cause. My hon'ble friend did, however, explain that under the Act a Sub-Committee would be appointed, which would dispose of all appeals from the Chairman's decisions. But even if the Chairman were to sit on the General Committee and discuss matters in which he is himself personally concerned, I should see no strong objection. It would certainly facilitate the disposal of such questions if the Chairman gave explanations at once, instead of the matters being referred to a Sub-Committee for report, and the Sub-Committee's report being submitted at some future time to the General Committee."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret to confess that I find myself in the somewhat unfortunate position of not being able to follow the line of reasoning adopted by the Hon'ble Member in charge of the Bill in answer to the arguments of the Hon'ble Mr. Apcar. That Hon'ble Member put forward two arguments in support of his motion. The first was that the General Committee had the right to hear appeals from the decisions of the Chairman, and that, therefore, the Chairman ought not to be the President of the General Committee. The second was that the Chairman, as the head of the Executive, should not also be the President of the General Committee. I propose to deal only with the first of these two arguments. It is repugnant to my instincts as a lawyer that any Judge, however eminent his position may be, however honest and impartial he may be, should sit not only as a member but as the President of a Court of Appeal, when such Court is hearing appeals from his own decisions. The Hon'ble Member in charge of the Bill observed that exceptions to this rule might be

[*Dr. Asutosh Mukhopadhyaya.*]

found, both in this country and in the House of Lords in England, which justified such a course. But I am not aware of a single instance, either in this country or in the House of Lords, which would really justify such a proposition. The Hon'ble Babu Surendranath Banerjee said that only in Full Bench cases did a Judge, who had sat and decided a case in the Court of first instance, hear it on appeal. That is not so. In Full Bench cases the Judge who originally hears the case only decides that the case is a fit one to be heard by a larger body of Judges, but he does not give any decision at all. So that, when a case is heard before a Full Bench, the Judges who decide have not heard the case before. In the House of Lords difficulty might occur in the case of the Lord Chancellor, who is Chairman of the Committee of Appeal, and if an appeal is preferred from the Court of Appeal, and is brought before the House of Lords, he as President of the House of Lords may have to sit in judgment over his own decision. But, as a matter of fact, that has never been the case, because, if an appeal is preferred against his decision in the Court of Appeal, he takes no part in the decision of such appeal. I would further point out that section 4 of the Judicature Act, 1875, clearly lays down that no Judge of the Court of Appeal shall sit as a Judge on the hearing of an appeal from any judgment or order made by himself or made by any Divisional Court of the High Court of which he was and is a member; and similar statutory provision is to be found in this country in section 38 of Act XII of 1887.

"But, Sir, it is not necessary to deal at any length with this point, because the Hon'ble Member in charge of the Bill says that section 88 (*now* 95) provides against such cases. On reference to that section, I find it lays down that the General Committee may from time to time by specific resolution delegate any of their powers and duties to Sub-Committees, and I understand that there may be an Appeal Sub-Committee. By sub-section (5*a*) [*now* (9)] of the same section every Sub-Committee shall choose one of their own members to preside at their meetings, provided that the Chairman shall be President of any Sub-Committee of which he is a member; there is, therefore, no guarantee that if an Appeal Sub-Committee is appointed, the Chairman may not be a member, and if a member, *ex officio* President of such Sub-Committee. Therefore, I venture to think that to remove all grounds of apprehension some such provision as that now proposed should be added to section 88 (*5a*), [*now* 95 (*9*)] namely, that the Chairman shall take no part in the decision of appeals against his own orders.

[*Dr. Asutosh Mukhopadhyaya; Babu Boikanta Nath Sen; Mr. Oldham.*]

Such a provision can harm nobody, and it will, if accepted, give confidence in the decisions of the Sub-Committee. Unfortunately, I am not entitled to move such an amendment without special leave, and I leave the matter entirely in the hands of Your Honour."

The Hon'ble BABU BOIKANTA NATH SEN said:—"The creation of three co-ordinate authorities seems to me to be one of the principal objects of this Bill. If the principle adopted in this Bill is carried to its legitimate length, it will be the perfection of legislation if in practice we find that the three co-ordinate authorities work independently of each other. Great difficulties will, I think, be found in keeping entirely separate the duties imposed on each of such authorities and preventing them from interfering with one another. If a General Committee can be constituted in such a way that it would have no connection with either of the other authorities, that is to say, the Chairman and the Corporation, then there can be no harm in accepting this amendment. I think the proper course for the Council to take is to do as much as it can to disintegrate all these authorities. Therefore I submit that this amendment ought to be adopted."

The Hon'ble MR. OLDHAM said:—"There appears to be some misapprehension on this subject in the Bill. It is clearly understood that it is the intention of the Government that the Chairman will not sit to hear appeals in cases against his own orders, and therefore the Chairman will never be either a member on such occasions, nor the President of such a Committee. That is, I understand, clearly the intention of the Government. Reverting to some remarks made by the Hon'ble Member who represents the Corporation, I remember very well the cases to which he alluded, the termination of which occurred during my own time, and they were undoubtedly very grave scandals; and I hope that my hon'ble friend will allow me to congratulate him upon the moderate and temperate tone in which he described all these matters, though they were subjects which were considerably criticised. He laid his hands upon them, and all these matters were dealt with by him in very temperate and moderate terms, and I may add by way of explanation that it was the temperateness of his methods which made me a standing adherent of his in the business of the Corporation, just as a reversed line of conduct has placed me in a position of antagonism to him here; but I cannot see how in any way the proposal which he has made will provide the remedy. He appealed to the Hon'ble

Mr. Buckley, and I anticipated the answer which my hon'ble friend Mr. Buckley would give him. The remedy against the repetition of such occurrences will, I believe, be found in the provisions of the Bill and the greater time that will be given to the Chairman and also to the Engineer, and they will allow the members of the General Committee to use just as much interference in the future as in the past in checking matters of this sort. It will in no way diminish the activity of my hon'ble friend, nor of the other gentleman to whom Mr. Apcar has referred. I also am quite ready to acknowledge all that gentleman's efforts, though sometimes I must confess that they interfered seriously with the progress of the work of the General Committee; but as regards the proposal itself, speaking from my own experience, I must say I cannot imagine who among the 18 members of the last General Committee, or the 18 members who now form that Committee, would accept the office of President of the Committee. I, therefore, think the proposal an impracticable one."

The Hon'ble MR. APCAR in reply said:—"If this is the result of an endeavour to express what is the clearly understood intentions of the Government, that the Chairman is not to sit in appeals in matters coming up from any questions in which he is concerned and which he has decided in the first instance, then I am afraid there is very little chance of the Bill, when it becomes law, working smoothly, because from first to last I see no indication in the Bill that in any way shows that the clear intention of the Government is that he shall not preside over the General Committee when hearing such appeals. The intention may be so, but it does not appear here. With reference to what the Hon'ble Member in charge says of judges sitting in appeal in their own cases, I ask that this should not be lost sight of: these cases to which I refer are cases in which the Chairman sits in appeal in his own cause: it may be his own action which may be challenged. These are not questions which have been raised upon points of law or any abstract question of any kind when possibly the Judge may occasionally sit in appeal, but they are matters in which he may take a partisan view. I think it is not desirable for the Chairman to be President of the General Committee to try any such case.

"I cannot help wondering why there is this striving in order to keep the Chairman of the Corporation as President of the General Committee. I am greatly in sympathy with much of what fell from the Hon'ble Mr. Buckley, but

not to the extent he goes. There may be an improvement by decentralisation, but there has been no investigation or consideration of such points as to how improvements should be effected. I by no means say that the administration is not capable of improvement, but we ought to proceed soberly in order to see what will be an improvement. But, accepting what he has said, surely it would be an advantage to the Chairman not to be burdened with so much extra work as the hearing of appeals in addition to what has been thrown upon him by reason of his being Chairman. The effect of my amendment would be, if carried, to decentralise work. The effect, if it is rejected, would be to centralise power and work in the head of the executive. I think that, when we have these constant changes of Chairmen, there is a great deal of waste of time, and when there are these questions of detail, a Chairman without experience could not get through the business unless assisted by members of the General Committee. He is dependent in 99 out of 100 cases for guidance from members of that Committee, and I cannot agree with the Hon'ble Mr. Bolton that there is so much superiority in the knowledge of the Chairman in regard to details. Certainly the volume of work which would fall to his share, I think, would be diminished very much if he were not also President of the General Committee.

"With regard to the remarks that fell from the Hon'ble Mr. Buckley, I am afraid that I have not made myself understood. What I meant was this: if the Chairman is not an experienced administrator, one who from his training has had no knowledge of business, and would, therefore, have ordinarily to rely upon the Heads of Departments and accept everything placed before him without question, the result is that we have so much business done in an unbusiness-like way that I wish to see a change in this respect.

"The Hon'ble Mr. Oldham has said that there would be no person found equal to the duties of the Chairman in the General Committee: in reply I say that I have been a member of a Committee in which most important work has been done and at which the Chairman has not been present, and I am bound to say that on the whole the order and despatch with which business was done, according to my humble idea, were better than when the Chairman has been present, because we had some one presiding who has been in the habit of doing business in Committees, and we have certainly progressed better than when the work has been done under the presidency of the Chairman. Then with regard to what has been said by the same

[*Mr. Apcar; Babu Surendranath Banerjee.*]

on'ble Member that the work would be still better done by the Chairman under e remodelled Bill: with all these safeguards that are to be provided, and if e General Committee is remodelled, why not, under such circumstances, give em the power to elect their own Chairman? If the General Committee can-t properly exercise the power to elect its own Chairman, what is it fit ? As for the practicability of this amendment, we know from experience, a matter of fact, that the Bombay system, under which the Chairman is cted by the members of the Corporation, has worked well. We do find there n who are thoroughly competent to preside at their Standing and other mmittee meetings, and we know that the system acts very well there. erefore, under the circumstances, I submit that this amendment should be rried."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word ghteen" be substituted for "twelve" in line 2 of section 8 (*now* 9).

He said:—"The object of the amendment is to retain the present mber of the General Committee. The present number of the General mmittee is 18; the Bill proposes to reduce the number to 12. I say that e present number ought not to be reduced. It is incumbent on those who ess for a reduction to make out their case, and I humbly contend that ey have not been able to make out a case. I believe the present Chairman the Corporation considers that the number 18 is too large. I am in a sition to show that perhaps the greatest Chairman who ever adorned the rporation as its head, Sir Henry Harrison, as of opinion that the mber 18 is not too large. Under the Calcutta Municipal Act of 1876 the mber was fixed at 30. When that Act came under revision in 1888, Sir enry Harrison was in charge of the Bill which was introduced into this il, and he proposed to reduce the number to 18; and we find, from the bates which then took place, that he was prepared to raise the number to 20 even to 24. Therefore, if the present Chairman of the Corporation finds e number 18 to be too large, there was another Chairman, who was at least as eat a Chairman as the present Chairman, and who was deliberately of opinion, ter a much longer experience, that the number of the General Committee ould be 18. And, further, the opinion of the non-official members of the orporation is also entitled to some consideration. Some of the members,

[*Babu Surendranath Banerjee.*]

whose experience extends over nearly a quarter of a century, are distinctly of opinion that the present number of 18 is not excessive. If you say you follow the Bombay model, my reply is that you do nothing of the kind. You follow the Bombay model when it suits you, and you discard the Bombay model when it suits you. The Bombay Act provides a General Committee with 12 members, with a non-official Chairman elected by the Committee. The proposal of the Hon'ble Member in charge of this Bill is a General Committee of 12 members with an official Chairman appointed by the Government. That is not the Bombay system, and it is a distinct advantage, when you have large and varied interests, such as you have in Calcutta, to have a considerable numerical representation of those interests, because the augmentation of numbers involves a wider diffusion of local interest. It is the essence of local self-government that a considerable number of the rate-payers should take an interest in their own local affairs; and, having regard to the interests involved in the Municipality here, it is desirable to keep the number of the General Committee at its present strength, which has not proved in any way inconvenient, but has on the contrary worked satisfactorily. And the average attendance at meetings of the General Committee has been from 12 to 13. Therefore, although you have 18 as the number of members on the General Committee, usually you do not have more than 12 or 13 members present; consequently you secure what you want by keeping the number at 18. I know what the answer of the Hon'ble Member in charge of the Bill will be. We are going to pay fees, and therefore everybody will attend. To that my reply will be, don't pay fees; it is a waste of public money. Many competent and experienced men, both Hindus and Muhammadans, can be found to serve on the General Committee and attend and take interest in the work without the payment of any fees. If without the payment of fees you can secure the attendance of 12 or 13 members on the General Committee, I do not see the reasonableness of paying fees. Therefore, it seems to me that the present number should not be reduced. It has stood the test of experience; it enables you to provide for a wide diffusion of local interest; the larger number has not been attended with inconvenience, then why do you wish to reduce it? Under the circumstances, I hope the Council will see its way to accept my amendment."

[*Mr. Baker.*]

The Hon'ble MR. BAKER said:—"The hon'ble mover of the amendment began by saying that it is incumbent on those who seek to make a change in the law to prove their case, and I listened with some interest to hear whether he would make any reference to the reduction which it has been decided to make in the total number of members of the Corporation. But he made no allusion to it. Yet it is a very relevant matter. At present the number of members on the General Committee is 18, out of a Corporation of 75. But under the Bill we have decided to reduce the number of the Corporation by one-third; therefore it seems perfectly reasonable that the number on the General Committee should be reduced in a corresponding proportion. That is a very simple and obvious conclusion. But I do not wish to rely solely on that consideration, because the intention of the Government was to reduce the number of the General Committee to 12 even if the number of the Corporation had remained unchanged. The Hon'ble Member referred to the opinion of Sir y Harrison that you might go up to 20 or even to 24 as the number of the ral Committee. But as a matter of fact Sir Henry Harrison proposed and ed a motion that the General Committee should consist of 18 members, he expressed the opinion that the work of the Committee was best done en the number of members present was from 12 to 14. Then the Hon'ble mber said that as a matter of fact the average attendance at meetings of the eral Committee was a little over 13 in one year and in the following year as a little over 11, and the average of the two years was about 12. We frequently been told that the General Committee as it is now constituted orked well, and if that is so, then the work has been done by a Committee is exactly of the number which we seek to provide for in the present . In the Port Trust the total number of members is 14, and the average ndance has been about 12, and in the Port Trust a great quantity of busis is done with a minimum of talk, a minimum of friction, and a maximum efficiency. Then in Bombay with a Corporation of 72 members the number of the Standing Committee is 12, and I understand that that Committee has worked well. Therefore in taking that number we are standing on the sure ground of experience elsewhere. The only argument against the change of the number from 18 to 12 is that it does not give sufficient scope for the representation of different interests. That is to a certain extent true, but I would remind the Hon'ble Member that in 1888, when the number on the General Committee was reduced from 30 to 18, Sir Henry Harrison expressed

the opinion that a larger representation of separate ward interests on the Committee would militate against the true interests of the Corporation. Making all due allowances, there can be no doubt that the balance of advantage is on the side of the smaller number."

The Hon'ble MR. OLDHAM said:—"I have one word to say. I only wish to offer one remark on my hon'ble friend's remark with regard to the diffusion of representation, and in theory I agree with him; but I may remind the Council that both in the old law, in the present law and in this Bill there is no provision for the representation of different interests on the General Committee; and as a matter of fact, so far from the constitution of the General Committee being based on that principle, in the last General Committee there were four members who resided in one single ward, and that is a small ward."

The Hon'ble MR. APCAR said:—"I wish to draw attention to this, that the maximum number proposed in the Bill is 12, and we have had it pointed out that Sir Henry Harrison considered 12 or 14 to be a good number to work with; but because we have 12 members on the Committee it does not mean that 12 will attend. With 18 mombers we now get 12 or 14 to attend; so that by cutting down the number of the Committee we are reducing their effective strength, because we know from experience that all the members will not attend. The only point against the larger number is that thore will be so many more fees to be paid. We must hope for the best and hope that the provision entitling the members to be paid fees will not be enacted into law. Another point in favour of the larger number, and I support it very strongly, is that I think there is safety in numbers. I need not enter into my reasons for supporting this view, because I have already stated them in my speech when the Bill was referred back to the Select Committee. I, therefore, think there ought to be 18 members. I do not like a body working with closed doors to deal with the rate-payers' money. In ordinary circumstances I think 12 members are enough for a meeting, but under all the circumstances I think it would be wise that we should have a larger number. It is for these reasons that I give my support to this amendment. The General Committee will deal with very large questions, and we ought to have the benefit of such advice as we can get, and I do not think we ought to limit the number to 12 out of which some may not attend. Under the present arrangement the General Committee permit any member of the Corporation

who desires to attend meetings of the General Committee to do so and bring forward any matter relating to his ward. Under the new constitution that idea will not be entertained. Under the Bill the members of the general body are not even to be allowed to have copies of the proceedings of the General Committee. I think this will be a very material danger in the administration of the affairs of the Municipality."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I have one or two observations to make in reply to what has fallen from the Hon'ble Member in charge of the Bill. The Hon'ble Member has observed that to reduce the number of the General Committee is reasonable having regard to the reduced number of members on the Corporation. There is a little anachronism in that argument. The reduction in the number of the General Committee was provided in the Bill before the reduction in the number of the members of the Corporation was even dreamt of. The Hon'ble Member has been good enough to Sir Henry Harrison to the effect that the work of the General ttee was best done when there have been few members attending. In nnection I am reminded of a little story for which I am indebted to an lish friend, viz., that the ideal, the best, the most perfect Committee ists of three members, one of whom is always sick in bed, the second ains from attending, and the third does the work. That was the best and t perfect Committee. The Hon'ble Member is endeavouring to have thing between the two which is attended with all the inconveniences I have red to. At the present moment all the resolutions passed by the General mittee are subject to confirmation by the Corporation; that is done away under the Bill; therefore there is all the greater reason why we should a larger representation on the General Committee. It becomes the reme judge with regard to matters which come before it; the Corporation ll know nothing of them, and, if you look at the question from this point of w, you will see that it is important that you should not reduce the number of he General Committee, but keep it at its present strength. I hope the Council will give this amendment the consideration it deserves."

The Hon'ble MR. BAKER said:—"The hon'ble mover of the amendment has introduced new matter in the course of his reply, namely, that the proceedings of the General Committee will not in future go before the general body of the Corporation, and I ask permission to say one word on that point.

The greater part of the work of the General Committee will not be done in its own person, but by reference to Sub-Committees, and the members of such Sub-Committees need not be members of the General Committee. It will be at liberty to select members from any section of the Corporation to serve on such Sub-Committees, and we hope this power will be very widely exercised. Therefore, the number of Commissioners who will actually have an opportunity of taking a part in the work of the General Committee will be very much larger than the number who are on the General Committee itself."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The maximum number of members on these Sub-Committees is 6, and the minimum number is 3. The appointment of Sub-Committees is wholly in the discretion of the General Committee, and they will appoint the members of the Sub-Committees. We must take human nature as it is. If I can get myself appointed on a Sub-Committee and get the fees, naturally enough I would not care to see some other person appointed. Whom can they appoint but themselves! They are the best persons to be appointed! I am no prophet, but let the General Committee appoint these Sub-Committees, and let us see what the *personnel* of such Sub-Committees will consist of. There is nothing to prevent the General Committee from appointing the members of Sub-Committees from among their own body; but if you declare that members of the General Committee shall not be members of Sub-Committees, then I can understand the force of the argument adduced by my hon'ble friend the Member in charge of the Bill. There would be then greater diffusion of interest among the members of the Corporation."

The motion was then put and lost.

The Hon'ble Mr. Apcar's amendment of section 8 (*now* 9) having been lost, the Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew his amendment No. 45, namely, that for the words "and the Chairman, who shall be President of the Committee" in lines 2 and 3 of section 8 (*now* 9), the following be substituted:—

"and the General Committee shall at their first meeting in each financial year appoint one of their own number to be their President until the first meeting of the said Committee in the next following financial year."

[*The President; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble THE PRESIDENT ruled the following motions, standing in the name of the Hon'ble Babu Surendranath Banerjee, to be out of order:—

(1) that the following be substituted for sub-section (*2*) of section 8 (*now* 9):—

"The said eighteen members shall be Commissioners, and shall be elected as follows:—

(*a*) twelve shall be elected by the Ward Commissioners, and

(*b*) six shall be elected by the Commissioners appointed under clauses (*a*), (*b*), (*c*) and (*d*) of section 7 (*now* 8);"

(2) that the following be substituted for sub-section (*2*) of section 8 (*now* 9):—

"The said twelve members shall be Commissioners, and shall be elected as follows:—

(*a*) eight shall be elected by the Ward Commissioners, and

(*b*) four shall be elected by the Commissioners, appointed under clauses (*a*), (*b*), (*c*) and (*d*) of section 7 (*now* 8);"

(3) that the following be substituted for sub-section (*2*) of section 8 (*now* 9):—

"The said twelve members shall be Commissioners, and shall be elected as follows:—

(*a*) six shall be elected by the Ward Commissioners, and

(*b*) six shall be elected by the Commissioners appointed under clauses (*a*), (*b*), (*c*) and (*d*) of section 7 (*now* 8);"

(4) that the letter "(*a*)" in line 3 of sub-section (*3*) of section 8 (*now* 9) be omitted.

The Hon'ble THE PRESIDENT also ruled the following motions, standing in the name of the Hon'ble Babu Boikanta Nath Sen, to be out of order:—

(1) that in section 8 (*now* 9), sub-sections (*1*) and (*2*), "eighteen" be substituted for "twelve;" that in sub-section (*2*), clause (*a*), "nine" be substituted for "four;" that in sub-section (*2*), clause (*b*), "three" be substituted for "four;" and that in sub-section (*2*), clause (*c*), "six" be substituted for "four;"

(2) that "six" be substituted for "four" in section 8 (*now* 9), sub-section (*2*), clause (*a*), and that "two" be substituted for "four" in sub-section (*2*), clause (*b*).

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 8 (*now* 9), sub-section (*2*), clause (*a*), for "Ward Commissioners" the words "Commissioners elected under section 7 (*now* 8), sub-section (*1*)," be substituted. This, he said, was a purely verbal amendment, and he hoped it would be accepted.

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Mr. Apcar.*]

The Hon'ble MR. BAKER having explained why the words objected to were inserted in the Bill, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew his amendment.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion for the amendment of section 7, sub-section (1*a*) [*now* section 8, sub-section (*2*)], having been lost on the 9th instant, he, by leave of the Council, withdrew the motion standing in his name, that in clause (*b*) of section 8 (*now* 9), for "and (*d*)" be substituted "(*d*) and (*e*)," and that after the figure "7" (*now* 8) be added "sub-section (*1a*) [*now* sub-section (*2*)]."

NEW SECTIONS.

The Hon'ble MR. APCAR'S motion for the amendment of section 8 (*now* 9), sub-section (*1*), having been lost, he, by leave of the Council, withdrew his amendment No. 53, that after section 8 (*now* 9) the following section be inserted :—

"8A. (*1*) The General Committee shall, at their first meeting in each financial year, appoint one of their own number to be their Chairman until the first meeting of the said Committee in the next following financial year.

"(*2*) A member of the General Committee who ceases to be Chairman shall be re-eligible.

"(*3*) If any casual vacancy occurs in the office of Chairman, the General Committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy; and every Chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred."

The Hon'ble MR. APCAR, by leave of the Council, also withdrew the motion, standing in his name, that the following section be inserted:—

"The General Committee shall meet for the despatch of business in the chief municipal office, and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts, as they think fit, subject to the following conditions:—

(*a*) there shall be a meeting of the General Committee once a week, and at such other times as may be found necessary;

(*b*) the first meeting of each General Committee shall be held on a day and at a time to be fixed by the Commissioner, and, if not held on that day, shall be held

on some subsequent day to be fixed by the Commissioner; and every subsequent meeting of the General Committee shall be held on such day and at such time as the said Committee from time to time determine;

(*c*) the Chairman of the General Committee shall, upon a written requisition signed by the Commissioner, call a special meeting of the said Committee within twenty-four hours for the transaction of any business which, in the opinion of the Commissioner, cannot be delayed until the next ordinary meeting of the said Committee;

(*d*) no business shall be transacted at a meeting of the General Committee unless at least six members are present from the beginning to the end of such meeting;

(*e*) every meeting of the General Committee shall be presided over by the Chairman, if the Chairman is present at the time appointed for holding the meeting, and, if the Chairman is absent, by such one of the members present as may be chosen by the meeting to be Chairman for the occasion;

(*f*) every question shall be decided by a majority of votes of the members of the General Committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(*g*) subject to any bye-laws made in this behalf, the General Committee may from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to Sub-Committees, consisting of such members of the said Committee, not less in number than three on each Sub-Committee, as they think fit; and any Sub-Committee so formed shall conform to any instructions that may from time to time be given to them by the General Committee; and the said Committee may at any time discontinue or alter the constitution of any Sub-Committee so formed;

(*h*) a Sub-Committee may elect a Chairman of their meetings, and if no such Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members of the Sub-Committee present shall choose one of their number to be Chairman of such meeting:

(*j*) Sub-Committees may meet and adjourn as they think proper, but the Chairman of the General Committee may, whenever he thinks fit, and shall, upon the written request of not less than two members of a Sub-Committee, call a special meeting of such Sub-Committee;

(*k*) questions at any meeting of a Sub-Committee shall be decided by a majority of votes of the members present, and, in case of an equality of votes, the Chairman of the meeting shall have a second or casting vote; but no business shall be transacted at any such meeting unless at least two-thirds

of the members of the Sub-Committee are present from the beginning to th end thereof;

(*l*) a minute shall be kept by the Secretary of the names of the members preser and of the proceedings at each meeting of the General Committee and a each Sub-Committee's meeting, in a book to be provided for this purpos which shall be signed at, and by the presiding authority of, the next ensuin meeting;

(*m*) a member of the General Committee shall not vote or take part in the discussio before the said Committee, or before any Sub-Committee, of any matter i which he has, directly or indirectly, by himself or by his partner, any shar or interest, such as is described in section 31 (*now* 39), sub-section (*2*), or i which he is professionally interested on behalf of a client, principal o other person;

(*n*) the Commissioner shall have the same right of being present at a meeting of the General Committee, and of taking part in the discussions thereat, as a member of the said Committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting."

SECTION 9.

The Hon'ble THE PRESIDENT ruled the following motion, standing in the name of the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur, to be out of order:—

that the word "six" be substituted for "four" in clause (*a*) of section 8 (*now* 9); that "three" be substituted for "four" in clause (*b*); that the words "and (*d*)" in clause (*b*) be omitted; and that the word "three" be substituted for the word "four" in clause (*c*).

SECTION 11.

The Hon'ble Mr. Apcar's motion for the insertion of a new section numbered 6AA having been lost on the 9th instant, the Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew his amendment No. 55, namely, that the words "of the Corporation" in line 3 of sub-section (*1*) of section 10 (*now* 11) be omitted, and that the following proviso be added to the section:—

"Provided that the Corporation shall at their first meeting in each financial year appoint one of their own number to be President until the first meeting of the Corporatio in the next financial year, unless the Commissioners retire from office, and then until the d of such retirement."

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 10 (*now*), sub-section (*2*), for the words "Commissioners present at the meeting" be bstituted the words "entire body of the Commissioners".

He said:—"If the amendment which I now propose is made, the clause ll read thus:—

'The Chairman may be removed from his office by the Local Government at its dis-tion, and shall be removed from his office if his removal be recommended by a resolution ich has been passed at a special meeting and in favour of which not less than two-thirds the entire body of Commissioners have voted.'

"The object of this amendment is to make the provision regarding the re-oval of the Chairman more stringent than it at present is. Such an important atter ought not to depend upon a mere chance vote. Under section 75 (*now* 82), elve members will form a quorum, and according to the Bill, as it now stands, will be possible for eight members to make a recommendation for the removal the Chairman. Referring to the Bengal Municipal Act, section 24, it will be ound that the Chairman elected under the last preceding section may at any time be removed by a resolution in favour of which not less than two-thirds of the whole number of Commissioners have voted. In the Bombay Municipal Act, section 54, sub-section (*2*), we find this:—

'But he shall be forthwith removed from office by the Government if, at a meeting of the Corporation held under section 61, forty-five Commissioners have so voted."

"In the Bombay Corporation there are 72 members; therefore, there must be a vote of five-eighths of the total number. The same proportion here would give 32, which is a little less than two-thirds of 50. Similarly, if we look to the Madras Act, section 35, we find that the President may be removed by a vote of not less than three-fourths of the Commissioners who have voted, provided the majority consists of one-half the entire number. So that in Madras you require an absolute majority. Therefore, if my amendment is adopted, it will make the provisions of this Bill harmonious with the provisions of similar Acts elsewhere."

The Hon'ble MR. BAKER said:—"This amendment to some extent took me by surprise, because it will have the effect of lessening the degree of ntrol which the Corporation have hitherto possessed. Under section 39 f the present Act, the Chairman must be removed if a resolution is passed by two-thirds of the members actually voting at the meeting. Personally I

do not wish to oppose the amendment. I understand that it will be opposed by Hon'ble Members who represent the Corporation, and I think it doubtful whether a sufficient case has been made out for making the law more stringent than it is at present."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"We, on this side of the House, entirely share the feeling of surprise and astonishment which has been given expression to by the Hon'ble Member in charge of the Bill. The amendment embodies the section in the original Bill (section 10) introduced in April, 1898, which required a vote of 50 members out of a body of 75 Commissioners, or two-thirds of the entire Corporation, before the Chairman could be removed. The matter came up before the Select Committee; we went carefully into the question, and I think we came by a unanimous vote to the modification now embodied in the Bill, and which my hon'ble friend the mover of the amendment wants to supplant and substitute in its place the original section of the Bill, viz., that two-thirds of the entire Corporation must pass a resolution in favour of the removal of the Chairman before he can be removed; and I may add that this is a contingency which will never happen. I do not think there has been any occasion in the history of the Municipality when such a thing has happened. There have been Chairmen of the Corporation who have been very unpopular; there have been Chairmen between whom and the Justices there were often fierce matters of contention; but they never could come to a resolution of this kind. This identical provision, I have remarked, was inserted in the original Bill; it was considered by the Select Committee, and the Select Committee by a unanimous vote altered it and substituted the section which appears in the present Bill. Having regard to this circumstance, is it desirable to change the law in such a way that the provision regarding the removal of the Chairman will be to all intents and purposes a practical nullity? This is the first time, I find, when the Municipal Law of the benighted Presidency has been referred to. There are only 32 Commissioners in Madras, of whom three-fourths are elected. The constitution of the Madras Municipality has no sort of analogy or approximation to that of the Calcutta Municipality. And let the Council bear in mind that the amendment proposes to change what has been a part of the Municipal Law since 1863. Under the Act of 1863 this was the law, under the Act of 1876 this was the

[*Babu Surendranath Banerjee; Mr. Bolton; Mr. Apcar.*]

law, and under the Act of 1888 this is the law. What are the arguments used in favour of this amendment? The Madras Municipality has some such provision! Is that a sufficient reason? Why should we accept such a reason as this? The Hon'ble Member also referred to the Mufassal Municipal Act. Surely he does not want to drag the Municipality of the metropolis down to the status of the mufassal Municipalities? I trust there will be a unanimous vote with regard to this matter. We are legislating for some practical purpose. Let us not reduce legislation to a farce by enacting a provision of law which never will or can be enforced in practice. Let us have the semblance of reality about our legislation. I hope the Council will vote against this amendment."

The Hon'ble MR. BOLTON said:—"My surprise is not that the Hon'ble Member should have moved this amendment, but that the provision in the original Bill should have been excised by the Select Committee. The Bill does not provide for an absolute majority. It mentions two-thirds of the Commissioners *present*, and there is thus uncertainty as to what the majority may be with reference to the whole number of the Commissioners. The quorum for the Corporation meetings having been fixed at 12 Commissioners, the Chairman might be removed on a vote of only 8 members. I submit that it would be monstrous to provide absolutely for the removal of the Chairman on so small a vote. In the mufassal municipalities, of which the Hon'ble Babu Surendranath Banerjee has spoken contemptuously, the proportion required for a vote of this nature is two-thirds of the total number of Commissioners. The Hon'ble Member observes that the provision proposed by the mover of the amendment would be unworkable. Is it unworkable in a mufassal municipality? It seems to me that an absolute majority of the total number of the Commissioners should be insisted on, and not a proportion of those present at a meeting. In a matter of so delicate a nature as the removal of the Chairman, many Commissioners would be unwilling to attend and vote, and the motion might be carried by a small section hostile to him, who do not represent the true feeling of the Corporation."

The Hon'ble MR. APCAR said:—"I hope I shall also be permitted to express my surprise that this amendment has been moved, but for a very different reason. I do not suppose, if there was such a feeling against a Government officer who was the Chairman of the Corporation, that the Government would

ever permit a discussion relating to him to take place at a public meeting. For my part, if this section were not included in the Bill, I should not be very much concerned, but if it is in the Bill itself, I am bound to say there is a consideration which has been lost sight of. It is all very well to say that you may have a vote of such great importance passed by 8 members, but I lay stress on the circumstance that it is a vote of a most important character and must attract the attention of all the members of the Corporation; and, if there were not more than 12 present, we should know the reason of it. There would be those who if they were to come would support the motion, but they choose to absent themselves because they do not wish to openly vote against the Chairman. I am not very much impressed with the idea that this provision is taken from the Bombay Municipal Act; and, with regard to the appointment of the Chairmen of mufassal municipalities, it does not rest with the Government It does rest with the Government in Calcutta, and I am constrained to vote against my hon'ble friend, for reasons which I have stated, but at the same time I must say that I do not think this particular provision is of much importance."

The Hon'ble BABU JATRA MOHAN SEN said:—"I do not think I should give a silent vote on this subject. The Hon'ble Mr. Bolton has said that, the removal of the Chairman being a very delicate matter, many Commissioners would not attend and vote, and therefore it should be made imperative that two-thirds of the entire body of Commissioners should be required to vote for the removal of the Chairman. That, I submit, is a practical impossibility. The *agenda* paper is always circulated, and if those who wish to take an interest in the matter do not choose to attend, nobody but themselves is to blame. If they do not care to see their intention carried out, they have only to thank themselves. If I understand the rules for voting in municipal bodies rightly, votes by proxy are not allowed; and therefore if we provide that the votes of two-thirds of the entire body are necessary for the removal of the Chairman, and if they do not choose to attend, then some provision will have to be made to receive votes by proxy in this matter, which is against the existing practice. It is only just and fair that Commissioners who take an interest in the matter and who intend to vote should attend and record their votes in public at a meeting."

[*Babu Boikanta Nath Sen; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU BOIKANTA NATH SEN said:—This section governs the question of the removal not only of the Chairman, but of the Vice-Chairman and the Deputy Chairman as well, although ostensibly it provides for the case of the Chairman only. The Vice-Chairman and the Deputy Chairman, as I understand, share with the Chairman this liability to removal from office. With regard to other officers and servants, having regard to the scope and spirit of the Bill, it would seem that the Vice-Chairman and the Deputy Chairman are not treated as Municipal officers and servants for the purpose provided in this section. [The Hon'ble MR. BAKER:—"Not for any purpose."] This, I submit is the only section which will govern the case of the Vice-Chairman and the Deputy Chairman; therefore, it is very desirable that the provision should be made of a practical character. The apprehension entertained by the Hon'ble Mr. Bolton is, I think, of a minor character; for when a special meeting is called to consider an important matter such as is provided for in this section, there will naturally be great excitement among the Commissioners, and there need be no apprehension that a Chairman or Vice-Chairman or Deputy Chairman will be removed by a chance vote. On the contrary, I think there would be a very full attendance of Commissioners."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I am very much surprised, Sir, at the expression of surprise all round, though I am aware Hon'ble Members are entitled to have their own views upon particular topics. The great point of my argument was that such a serious matter as the removal of the Chairman ought not to depend upon a mere chance vote. In answer to this, one of my hon'ble friends said that, when a question like this comes up for discussion, a great many Commissioners would be sure to attend. I have never had the honour of a seat on a Municipal Board, and, therefore, I cannot speak from experience; but from what I have heard, I think the contrary would be true. In 1891, there was a question of the increase of the Chairman's salary—a proposal the fairness of which was not appreciated by many of the independent Commissioners; there was a small attendance, and the proposal was carried be a narrow majority. Your Honour's predecessor did not accept that recommendation, because no reasons had been assigned, and also because the motion had been carried at a small meeting by a narrow majority. The matter was sent back for reconsideration, the Commissioners attended in troops, and the

[*Dr. Asutosh Mukhopadhyaya; the President; Mr. Apcar.*]

whole thing was upset; but in the beginning the Commissioners, independent or otherwise, made themselves scarce. Therefore, I adhere to my motion upon the ground that a serious matter like this should not depend upon a mere chance vote. My hon'ble friend Babu Boikanta Nath Sen rightly said that this section applied not only to the Chairman, but also to the Vice-Chairman and to the Deputy Chairman. I submit that that is the strongest reason to induce him to support my motion; the Chairman and the Deputy Chairman will ordinarily be members of the Covenanted Civil Service; the very strength of their position will be a protection against their removal; the Vice-Chairman, however, has been and is likely to continue to be an Indian non-official, and to enable him to discharge his duties with efficiency and uprightness, we ought certainly to strengthen his position; and this my amendment, if accepted, will most effectively achieve."

The Hon'ble the PRESIDENT said:—"Like the Hon'ble Member in charge of the Bill, I do not wish in any way to influence the opinion of the Council on this amendment."

The motion being put, the Council divided as follows:—

Ayes 7.	*Noes 10.*
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Babu Surendanath Banerjee
The Hon'ble Mr. Mackenzie.	The Hon'ble Babu Boikanta Nath Sen.
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.	The Hon'ble Mr. Apcar.
The Hon'ble Mr. Slack.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Mr. Handley.	The Hon'ble Mr. Spink.
The Hon'ble Mr. Buckland.	The Hon'ble Babu Jatra Mohan Sen.
The Hon'ble Mr. Bolton.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Buckley.
	The Hon'ble Mr. Oldham.

So the amendment was lost.

SECTION 12.

The Hon'ble MR. APCAR moved that in section 11 (*now* 12), sub-section (*1*), after the word "by" the words "the Corporation with the approval of" be added.

[*Mr. Apcar.*]

He said:—"On a previous motion in an earlier part of to-day's proceedings the Hon'ble Mr. Oldham made some general observations of a personal character in which I understood him to compliment me on the moderate and temperate tone in which I criticised certain proceedings of the executive of the Municipality, and went out of his way to contrast this with the intemperate tone which he alleged against me with regard to other questions during the earlier proceedings in this Council. I ask the Hon'ble Member whether I am right in saying that he again has asserted that my conduct was intemperate on a previous occasion. [The Hon'ble MR. OLDHAM assented.] Then, Sir, I am constrained to notice the matter. I warned the Hon'ble Member on a previous occasion that while I passed by the attack then, I would not do so if it were repeated. I avoided replying to him to-day when I was replying on the subject of my previous amendment, and I now refer to the subject to give him free opportunity of answering me, which he would not have had if I had exercised my right of reply with regard to himself before. Sir, if any person outside the Council were asked what were the relative positions of its Members—the supporters of the Government have been indulging in the classics, and I may perhaps be permitted to explain myself in the same way—he would say *omnes inter se pares*. If, however, the same person were to come here into the Council chamber, he would really think that some Members were superiors and others were their inferiors. I must tell the Hon'ble Member that I cannot admit any such idea. I before have explained, as I have understood, with the assent of Your Honour, that he was under a misapprehension in charging me with attacking the municipal executive or any individual of it, that I would not come to the Bengal Council in order to attack them, and that I had been stating facts in support of my contention, which it was open to him to challenge if inaccurate. The Hon'ble Member has chosen not to give any consideration to my disclaimer, and he takes an early opportunity of repeating a wholly unjustifiable charge against me. I cannot acquiesce in any such proceeding. I regret that what I on the previous occasion said has met with no consideration from the Hon'ble Member; it is my anxious desire to show every consideration to my colleagues, but I must ask for the same treatment from them. I cannot allow the Hon'ble Member to lecture me in this way; I do not admit him as an arbiter as to my conduct, and I do not want his certificate as to my conduct. I repeat I hope I shall be treated with the same consideration with which I desire to treat

[*Mr. Apcar.*]

every Councillor here, but I will not submit to any as the arbiter of my conduct.

"The motion now before the Council I have already read. We have always hitherto fixed the salary of the Chairman, and I would ask that we should not depart from the old practice in a matter of such importance. There is no reason why our power should be taken away from us. We have shown no desire to refuse to increase the salary of the Chairman when we think it is called for. In Bombay the salary of the Municipal Commissioner cannot be raised until after a service of three years. We do not ask you to limit the power of the Commissioners by a provision of that nature. Here the salary of the Chairman may be raised soon after his appointment. If there is an idea that we have been found wanting in the exercise of our discretion in connection with the question of raising the salary of the Chairman, I will venture to say that the idea is not justified. My hon'ble friend referred to an instance with regard to which I have come prepared with the facts. I hold in my hand the *précis* of the proceedings of the Commissioners, which I shall read to the Council:—

'Mr. Lee was appointed Chairman with effect from 16th April, 1890, on Rs. 2,500 a month, *vice* Sir Henry Harrison, resigned. At the special general meeting of the Commissioners held on 12th February, 1891, at which the budget estimates for 1891-92 were presented, an elected Hindu Commissioner moved that the executive be instructed to enter in the draft budget for 1891-92 the salary of the Chairman at Rs. 3,000 *per mensem*. The motion was carried by 13 votes against 3, seven Commissioners having declined to vote.

'A copy of the resolution was submitted to the Local Government for approval. The Local Government in reply said that, considering the salary of the Chairman was fixed at Rs. 2,500 so short a time ago as April, and that it was then understood that the Commissioners felt strongly on the subject, the Lieutenant-Governor would have expected that some explanation of the present resolution would have been submitted, showing that either the conditions had changed or something had occurred to convince the Commissioners that the former attitude was no longer tenable. The Lieutenant-Governor was unable to accord his approval to a resolution which gave no reasons and was supported only by 13 out of 75 Commissioners at a meeting at which only 23 Commissioners were present. If it was, however, the deliberate wish of an absolute majority of the Commissioners, that is to say, not less than 38, to increase Mr. Lee's salary to Rs. 3,000, the Lieutenant-Governor had no desire to oppose such a resolution; but he must be satisfied that they had good reasons for it with which their constituents would be satisfied.

[*Mr. Apcar.*]

'When the question came up for reconsideration, it was recognised by none more clearly than by Mr. Lee that the financial position of the Corporation was unfavourable, and a resolution that the consideration of the question of the increase of the Chairman's salary should be postponed, and be taken up next year in connection with the budget estimates, was carried by *26 votes against 17*.

'At a special general meeting held on the 17th December, 1891, a Hindu elected Commissioner moved that Rs. 500 a month be allowed as house-allowance to the Chairman, and the motion was carried by 21 votes against 13. The resolution was in due course forwarded for the approval of the Local Government. In reply, the Chairman was informed that in the Lieutenant-Governor's opinion the proper measure of the house-rent to be allowed to the Chairman should be, not the entire amount which he might reasonably be expected to pay for a house in Calcutta—it was parenthetically observed that even on this supposition Rs. 500 seemed to be too much—but the difference between the rent of a good house in Calcutta and the rent that an officer of the Chairman's standing would have to pay for a house in the mufassal: taking the former sum at Rs. 350 to Rs. 400 and the latter at Rs. 100 or Rs. 150 *per mensem*, it seemed to the Lieutenant-Governor that Rs. 250 a month would be a fairly liberal sum to allow the Chairman for house-rent in Calcutta; and, if on further consideration the Commissioners decided to grant this amount, the Lieutenant-Governor would be prepared to accord his approval to such a resolution.

'At a special general meeting held on the 13th January, 1893, an elected Hindu Commissioner moved that the sum of Rs. 250 a month be allowed to the Chairman as house-rent from the beginning of the current calendar year. The motion was carried and the grant of the allowance of Rs. 250 was in due course approved by the Local Government.'

"It will be seen from what I have read that as far as the Commissioners were concerned they were on their part ready to increase the salary; it was on the part of Government that objections were raised. I submit that as far as the Corporation are concerned they have never exercised their discretion arbitrarily, and if there was any hesitation in voting on that occasion, it was because Mr. Lee came very lately to the Corporation, and, as the Hon'ble Mr. Bolton knows, the Corporation were prepared to allow a salary of Rs. 3,000 a month for another officer whom they were not permitted to have, and a junior officer was given instead. In a few months it was sought to raise his salary, and many Commissioners refrained from voting. The Government would not permit the salary of that officer to be raised, and therefore, the *onus* was not on the Commissioners. In these circumstances, and now that we are to have a remodelled Corporation, now that we have removed obstacles which were supposed to exist, we should expect something very different from what has

been heretofore. I think that a matter of this kind should in all self-governing bodies be left to the body itself."

The Hon'ble MR. APCAR also moved—

(*1*) that in section 11 (*now* 12), sub-section (*1*), after the words "*per mensem*" the words "and not being more than three thousand rupees *per mensem*" be added; and

(*2*) that in section 11 (*now 12*), sub-section (*2*), for the words "the Local Government may, if it thinks fit, direct" the words "the Corporation, with the approval of the Local Government, may, if they think fit, sanction" be substituted.

He said:—"Under section 11 (*now 12*), sub-section (*1*), there is no limit to the salary of the Chairman. It is to be in the discretion of an authority outside the Corporation to give him Rs. 3,000 or Rs. 5,000 or Rs. 10,000 a month. There is no restraint whatever, and I do not think it right that such absolute power should be given. In Bombay the minimum is Rs. 2,000 and the maximum Rs. 3,000; here we have a minimum of Rs. 2,500, with no limit as to the maximum, and we also give Rs. 500 a month as house-allowance, and if it is endeavoured to add to that a contribution for pension, it would come to a still larger sum. So that I think it is not right to leave the question so entirely open and to say that no sort of limit should be imposed. I believe that the higher appointment of a member of the Board of Revenue carries with it a pay of Rs. 4,000 a month. Under all these circumstances, I consider that a maximum limit of Rs. 3,500 a month should be sufficient, and that the salary of the Chairman should be fixed by the Corporation with the approval of the Local Government. The Corporation ought to have entire discretion in the matter."

The Hon'ble BABU SURENDRANATH BANERJEE moved—

(*1*) that before the words "Local Government" in line 3 of sub-section (*1*) of section 11 (*now 12*), the words "Corporation with the sanction of the" be inserted;

(*2*) that for the words "two thousand five hundred rupees *per mensem*," at the end of sub-section (*1*) of section 11 (*now 12*), the following words be substituted:—

"two thousand five hundred rupees and not exceeding three thousand rupees *per mensem*;" and

[*Babu Surendranath Banerjee.*]

(*3*) that for the words "Local Government," in line 3 of sub-section (*2*) of section 11 (*now 12*), the word "Corporation" be substituted.

He said:—"I desire to state briefly what the present law is, and to state also as briefly as I can the changes proposed by this Bill, and to point out that no case has been made out for these changes. The salary of the Chairman is fixed by the Corporation, subject to a minimum of Rs. 2,500 a month. That minimum was first introduced by the law of 1888. Before that, under the law of 1876 and the law of 1863, the Corporation had full, absolute and unfettered discretion in fixing the salary of the Chairman, without any reservation of any kind being made for the benefit of the officer concerned. In 1888, for the first time, a reservation was introduced, but the Corporation had still the power of fixing the salary. The Corporation fixes the salary; it grants the increments; it grants house-rent; but it cannot go beyond the maximum of Rs. 3,000 which is fixed under the existing law. It is now proposed to introduce a material modification. The Chairman will be appointed by the Government as before, but the salary will also be fixed by the Government. Increments of salary and the grant of house-rent will also be determined by the Government. The increments may be raised to any figure the Government may please. No maximum is fixed. The maximum was imposed in the original Bill, but it was withdrawn. In the Select Committee I undertook, at the instance of a Committee of the Corporation, to point out that the Corporation had always been generous in granting house-rent and increments; and that, if the Government was prepared to raise the increments to any figure it thought proper and to grant such house-rent as it liked, it would interfere very seriously with the financial independence of the Corporation. The law, which was the law to-day, has been the law since 1863, subject to the slight modification to which I have called attention. We deny that there is any justification for a change in the law. I find the following in the Statement of Objects and Reasons attached to the Bill when it was introduced by the Hon'ble Mr. Risley:—

'The Chairman of the Corporation is placed in a false position by his salary being made to depend on the good-will of the Corporation.'

"Why, Sir, it is of the greatest possible advantage to the Chairman and to the Corporation alike that he should cultivate the good-will of the members of the Corporation. On what does the efficient working of the Corporation

depend? It depends on the harmony and cordiality that exist between the Chairman and the members of the Corporation. If you make the Chairman independent of the Corporation and of the good-will of the Commissioners, you place him in a false position; you withdraw from him the incentive which he now possesses of cultivating the friendship of the Commissioners. The efficiency of the Corporation depends on harmonious co-operation between the Chairman and the Commissioners. I remember a time when the Commissioners were fighting with the Chairman and the Chairman was fighting with the Commissioners; and also when the Justices were fighting with their Chairman. It was a scandal the like of which has not taken place since, and I ask whether you wish to revive the opportunities for such a scandal? It is the interest and the duty of the Chairman under the existing law to cultivate harmonious relations with the Commissioners, and you deprive him of a strong motive for doing so, by making him independent of them. I think there is a fatality, following this Bill all through. There is a supreme disregard shown throughout of the ordinary considerations of prudence and sound sense which I should not have expected in the case of Hon'ble Members of this Council. There is a suggestion that the Commissioners have not behaved handsomely to their Chairmen. My hon'ble friend Mr. Apcar read out a statement from which it appeared that Sir Charles Elliott positively declined to confirm a vote of the Commissioners granting a sum of Rs. 500 to one of their Chairmen as house-allowance. Then in the case of Mr. Williams, Mr. Greer and Mr. Bright, the Corporation simply followed the recommendations of the Government. I was associated for a long time with the Corporation, and my associations with the several Chairmen have been of the pleasantest character; and I can say this on behalf of the Corporation, with which my connection has now been severed, that there was hardly any suggestion or expression of a wish emanating from the Government which was not treated with the utmost possible respect. All that the Government had to do in the case of Mr. Williams, Mr. Greer and Mr. Bright was to make a suggestion that they should get so much, and the Commissioners accepted the views of the Government. What, then, is the justification for withdrawing this power from the Corporation. Has there been any case of recusancy or wilful disregard of any recommendation made by the Government? On the contrary, the Commissioners have been highly deferential to the wishes of the

[*Babu Surendranath Banerjee; Mr. Baker.*]

Government. And yet, in the face of these facts, which cannot be denied, you propose to enact a provision the effect of which will be to make the Chairman independent of the Corporation, and sow the seeds of dissension, strife and discord, to the serious detriment of the business of the Corporation. I hope and trust that, having regard to these considerations—and they ought to weigh with the practical administrators whom I see around me—the Council will see its way to accept the amendments which stand in my name."

The Hon'ble MR. BAKER said:—"I am very ready to admit that the Corporation have, so far as I am aware, always treated their Chairmen in a generous and liberal spirit. I have never known any instance in which they have shown niggardliness or an ungenerous spirit in settling questions connected with the salary of the Chairman. But the present law is nevertheless bad and unsound, and I consider it wiser that, as the Government has to select the Chairman and to make the appointment, the Government should also fix his pay. The power to fix the initial pay of the Chairman must in the nature of things be exercised at a time when he is a stranger to almost all the Commissioners, and they can have no personal knowledge of his capacity and usefulness. They can have no knowledge of him, compared to what the Government has of one of its own officers for a period of 15 or 20 years. Similarly, with reference to his future increase of pay, to make the Chairman dependent upon the Commissioners must place both them and him in a more or less false position. The Hon'ble Babu Surendranath Banerjee said it was most important that the Chairman should cultivate the good-will of the Commissioners, and that the efficient working of the Corporation depends on the existence of harmony, good-will, and cordiality between the Chairman and the Commissioners. But I am sure that the Hon'ble Member never intended to suggest that the Chairman should be induced to cultivate the good-will of the Commissioners with the hope of obtaining increments to his pay. If we allow the Commissioners to fix the initial pay of the Chairman or to regulate the subsequent increases to his pay, there might be a party among the Commissioners who would favour the Chairman and a party who would be in opposition; and it is neither expedient nor politic that we should place either him or them in a position in which their personal and their public interests might be in opposition. It is true that the good feeling of the Commissioners has hitherto prevented any scandal arising, but the danger is there, though dormant.

It is not an imaginary danger. The Hon'ble Mr. Turner told us in the Select Committee of an incident in the Bombay Municipality. He said that on one occasion a rumour got abroad in Bombay that the action of the Municipal Commissioner in some matter had been influenced by the fact that he was then expecting an increase to his pay. He told us that he did not believe that there was an atom of truth in the rumour; but the mere fact that such a rumour should have been possible shows that the law is unsound. It would, I think, be unwise to wait until such a rumour arises here before we change the law.

"The present maximum salary of the Chairman is Rs. 3,000 a month. It is proposed to abolish the maximum, and to authorise the Government to fix the salary at any amount it thinks necessary from time to time. There was a strong representation made both by the Chamber of Commerce and the Trades Association that on the ground of efficiency the Chairman of the Corporation should be permanent and that he should make his career in the appointment; and they urged that it was only possible to secure that result if the Government were empowered to award to the Chairman the salary which from time to time was appropriate to his standing in the service. That argument I consider to be unanswerable. There can be no question that the tenure of the Chairman's appointment should be as prolonged as possible. The holder of the office of Chairman must certainly, for some time to come, be taken from some branch of the Government service; and, if he is to remain in that office, he must receive a salary from time to time proportionate to his standing in the service of the Government.

"There is another consideration also, which, though of minor importance, is worth mentioning. Since the passing of the Act of 1888 the relative value of the salary attached to the office of Chairman has depreciated. In the year 1893 exchange compensation allowance was sanctioned by the Government of India, but such compensation has not been received by the Chairman of the Corporation, and the effect of that disallowance has decreased the relative value of the Chairman's pay by about Rs. 150 a month. The question of the Chairman's house-rent has been referred to, along with the question of his pay. I need not dwell on it further, because the arguments in regard to it are exactly the same in nature. The arguments are not perhaps quite as strong in degree in the case of house-rent as in the case of pay, but

[*Mr. Baker; Mr. Mackenzie; Mr. Bolton; Mr. Apcar.*]

they are precisely similar in kind. The Hon'ble Mr. Apcar said that the Corporation would have to pay the contribution on the Chairman's salary on account of leave and pension allowances. That, I beg to say, is a misapprehension. The Civil Service Regulations provide that no contribution is payable on the salary of the officer who is Chairman of the Calcutta Corporation."

The Hon'ble MR. MACKENZIE said:—"Sir, I am free to admit that as regards the past the Corporation have treated their Chairman liberally, but we are now legislating for the future, and as I consider it a wise provision that the fixing of the salary of the Chairman should be in the control of the Government I shall oppose the amendment."

The Hon'ble MR. BOLTON said:—"The proposal to leave the question of the Chairman's pay to the Corporation appears to me inconsistent with the provision of sub-section (*1*) of section 10 (*now* 11) which vests the appointment of the Chairman in the Local Government. The authority which appoints should also obviously fix the pay. If the Corporation refused to fix the pay which the Government considered necessary for the officer whom it has selected, a deadlock would arise. The Hon'ble Babu Surendranath Banerjee spoke of the desirability of establishing cordial relations between the Commissioners and their Chairman. As the Hon'ble Member in charge of the Bill has already observed, the Hon'ble Babu Surendranath Banerjee does not, it is hoped desire to imply that the Chairman should seek to secure the good-will of the Commissioners through the expectation of receiving higher remuneration. An amendment put on so sordid a basis cannot claim support. Cordial relations should be established by reciprocal consideration and courtesy, and not by subserviency on the part of the Chairman."

The Hon'ble MR. APCAR, in reply, said:—"With reference to the remark which fell from the Hon'ble Member in charge of the Bill that an allowance of Rs. 3,500 a month is not sufficient to retain for any considerable time the services of the Chairman of the Corporation, I would point out that there is nothing to prevent a maximum being fixed by law. In the case of the high office of the Viceroy, a maximum salary is fixed, and so also in the case of other high officers of the Government, and it seems to me so very unbusiness-like, not to fix a maximum, that I think the provisions of the Bill should not be permitted to

remain in their present form. If the maximum pay is required to be Rs. 4,000 a month, let it be so; but some maximum should certainly be fixed, because otherwise there might be no limit whatever to the pay which might be drawn by the Chairman of the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"The Hon'ble Member in charge of the Bill opened his reply by admitting that the Corporation have always treated their Chairman in a generous spirit. If they have done so, then why take away this power of fixing the pay of the Chairman from the Corporation? If the treatment of the Chairman has always been such as to elicit such deserved praise from the Hon'ble Member, it stands to reason that things should be left severely alone. That seems to be the dictate of reason and sound sense. If, on the other hand, the Corporation had not treated the Chairman generously, if they had treated him in a niggardly spirit, or if, in defiance of the orders of the Government or of the spirit of those orders, the Corporation had acted in an unjust and ungenerous spirit in fixing the pay of their Chairman, then I could understand the present proposal for a change of the law. But when they have all along treated their Chairman handsomely, I submit that no case has been made out for such a change.

"The Hon'ble Mr. Bolton has observed that the Government should fix the pay of the Chairman inasmuch as it has the making of the appointment. But the Government has been making the appointment ever since 1863. Has the Government all this time been guilty of an illogicality or of an anomaly? And is the Government only now going to correct the anomaly? I think anomalies of long standing which have not worked any harm should be left alone. If there has been an anomaly, I submit that it has been consecrated by prescription and long usage.

"Then the Hon'ble Member in charge of the Bill observed that if the salary of the Chairman of the Corporation was made dependent upon the good-will of the Commissioners, there would be two parties in the Corporation. We have an emphatic, though not an elegant, expression in the English language, viz., that the proof of the pudding is in the eating of it. Have we two parties in the Corporation now? The Hon'ble Member was for some time himself a distinguished and conspicuous nominated member of the Corporation; he belonged to no party, because there were none in the Corporation. Such

[*Babu Surendranath Banerjee.*]

calamity has never occurred; therefore this is an anticipation which is not likely to be realised.

"Then with reference to the rumour that in Bombay at one time the Municipal Commissioner was about to do something which he ought not to have done, in consequence of a proposal for increasing his pay, that I submit is a rumour which should be brushed aside as irrelevant to the issue before us If my hon'ble friend could say that in the Calcutta Corporation it was an authenticated and well-established fact that the Chairman had done something which he ought not to have done, in the hope of getting an increase of pay from the Commissioners, that would be an argument which we should be bound to take into consideration. We in this Council have nothing to do with vague and unauthenticated rumours; and inasmuch as we have not even a rumour here, we should take it for granted that even the basis for such a rumour has never existed in connection with the working of this section in Calcutta.

"The Hon'ble Mr. Bolton has been pleased to remark that there might be a deadlock if the authority who fixes the pay of the Chairman is a different authority from the authority who makes the appointment. I again reply, as I did to the Hon'ble Member in charge of the Bill, that there has been no deadlock within the last forty years, although there were ample opportunities for it, and that therefore we should be justified in anticipating that there would not be a deadlock in the future.

"No doubt, so far as logic and sound sense are concerned, you have them in your favour when you say that the Government should fix the pay of the Chairman because the Government has better opportunities of knowing the merits and the status of the officer whom they appoint than the Corporation; but when the Government has fixed the pay of the Chairman, why should not the Commissioners fix the increments? Whether the Chairman should get an increment of pay or not is a matter which the Corporation is best able to judge. The Corporation had to deal with their Chairman from day to day; they had opportunities of judging his work, and they were distinctly in a position to know what increase of pay, if any, he deserved, and that is what the Bombay Municipal Act provides. The Bombay Government fixes the salary of the Municipal Commissioner, but when an increment was to be given, it could not be given without the consent of the Corporation, because the Bombay Act

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

recognises the fact that the Corporation, coming as they do in daily contact with the Chairman, would be in the best position to know whether he was entitled to an increment of pay or not. I should have less objection to this provision of the Bill if the Government, having fixed the salary, gave the Corporation the right to fix the increments, because the question whether the increments were deserved or not would be more within the knowledge of the Corporation than of the Government. That would be a rational position to take up.

"I entirely sympathise with the remarks made by the Hon'ble Mr. Apcar with regard to the maximum of the Chairman's pay not being fixed in the Bill. There was a maximum fixed to the salary of every officer under the Corporation, but under this Bill there would be one officer, and only one officer, in the Corporation and in the Indian Empire who would have no maximum fixed to his pay, and whose pay might be any sum in the discretion of the Government. This, I submit, is an anomaly. Let the maximum be Rs. 3,500, or let it be even Rs. 4,000 a month. I would have no serious objection to offer; but let there be a maximum. The maximum has been withdrawn at the instance of the Chamber of Commerce. I greatly respect the wisdom of the Chamber of Commerce, but that excellent body is not infallible."

The motions were then severally put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 11 (*now* 12), sub-section (*1*), line 4, after the word "rupees" be added the words "and not being more than three thousand five hundred rupees."

He said:—"I only wish to say that it seems to me not only illogical, but somewhat unreasonable, to fix a minimum for the Chairman's salary, but not the maximum. My good friend asks me, why should I presume that the Government will do something very unjust in the exercise of their discretion? Well, if you have so much confidence in the Government, why is the minimum salary of the Chairman fixed in this Bill? Why not say that the Chairman is to receive such salary as may from time to time be fixed by the Local Government? But I venture to think that, as you have a minimum salary laid down, you should also fix the maximum salary to be paid to the Chairman."

The Hon'ble MR BAKER said:—"I do not think there would be much practical inconvenience in fixing the maximum salary of the Chairman at Rs. 3,500 a

month, because I think that for a long time to come at least no higher salary will ever be given. I admit that the Hon'ble Mover of the amendment scores a point logically when he says that, if you have no maximum salary fixed, there ought to be no minimum. But the reason for fixing a minimum salary is historical. It was introduced in 1888. Before that time the pay of the Chairman was entirely left to the Corporation, but in 1888 both a minimum and a maximum were fixed to prevent the Corporation from hampering the Government in making the appointment by fixing a lower salary than that which was appropriate to the position and the status of the officer selected. Although it is very unlikely that a higher salary than Rs. 3,500 a month would be given to the Chairman of the Corporation, yet I do know of one officer who did receive as much as Rs. 4,166 a month, and that was Mr. Sidney Wauchope; and I apprehend that many members of the Corporation would have been glad to give Sir Henry Harrison an even higher salary to induce him to remain on as Chairman of the Corporation."

The Hon'ble MR. OLDHAM said:—"Sir Henry Harrison did actually receive Rs. 4,000 a month at the close of his service as Chairman of the Corporation, because the Corporation were anxious to retain his services for some time longer."

The motion was then put and lost.

The Hon'ble Mr. Apcar's second amendment of section 11 (*now* 12), sub-section (*1*), having been lost, the following amendment, of which the Hon'ble RAJA RANAJIT SINHA BAHADUR of Nashipur had given notice, viz., that the words "more than three thousand nor" be inserted after the words "not being," in line 3 of section 11 (*now* 12), was not put.

The Hon'ble MR. BAKER, with the permission of the Hon'ble the President, moved that the words "not being less than two thousand five hundred rupees *per mensem*" be omitted from section 11 (*now* 12), sub-section (*1*).

The motion was put and agreed to.

SECTION 13.

The Hon'ble MR. APCAR, by leave of the Council, withdrew the motion, standing in his name, that section 23 (*now* 13), sub-section (*1*), be omitted.

[*Babu Surendranath Banerjee; Mr. Apcar.*]

The Hon'ble BABU SURENDRANATH BANERJEE moved that sub-section (*2*) of section 23 (*now* 13) be omitted.

The Hon'ble MR. APCAR moved that in section 23 (*now* 13), sub-section (*2*), for the words "the Chairman" the words "any one of the municipal authorities" be substituted, and that for the words "Local Government" the words "Advocate-General of Bengal" be substituted.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for the words "the Chairman shall refer the matter to the Local Government, whose decision shall be final," in lines 3 and 4 of sub-section (*2*) of section 23 (*now* 13), the following be substituted:—

"the Corporation shall take such action as they may deem fit."

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for the words "the Chairman shall refer the matter to the Local Government, whose decision shall be final," in lines 3 and 4 of sub-section (*2*) of section 23 (*now* 13), the following be substituted:—

"the Chairman shall refer the matter to the Advocate-General of Bengal for the time being, whose decision shall be final."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The object of my first amendment is to omit sub-section (*2*). I find that section 23 (*now* 13) of this Bill is exactly the same as section 64 of the Bombay Act, with the exception of sub-section (*2*), which I want to be omitted. What I contend for is this: that in the Bombay Act there is no provision such as we have in sub-section (*2*) of section 23 (*now* 13). The sub-section provides that in case of a difference of opinion the matter shall be referred to the Local Government, and the decision of the Local Government shall be final. They have not felt any necessity for such a provision in the Bombay Act. Why should there be such a provision in our Act? If there is a difference of opinion, the matter should be referred to the Advocate-General, who would be in a position to give an opinion which ought to commend itself to all the authorities concerned. We do that now. If a doubt arises with regard to the legality of any proceeding or the exercise of any function, and there is no provision of law on the subject, or only a doubtful provision, we send the question up to the Advocate-General, and there is an end of the matter. I will give a concrete instance: there

was a very important matter with reference to the power of the Commissioners to interfere with any appointment carrying a salary of Rs. 200 a month or under. All such appointments are made by the Chairman. Some Commissioners raised the question whether, having regard to the general powers of revision which the Corporation possessed, it was not open to them to enquire into and, if necessary, to cancel or modify an order of the Chairman suspending or dismissing any such officer. The matter was referred to the Advocate-General, and everybody was satisfied with his opinion. I think it is a very plain and simple issue which I raise, and I hope this amendment will be accepted."

The Hon'ble MR. BAKER said:—"I cannot agree to either of these amendments. It may be convenient and even necessary to have some means of readily deciding as to the authority which is to exercise particular functions. We have done our best to indicate in every case the authority by which a function is to be exercised, and I do not know of any case in which this has not been done. But the Bill has 668 sections, and is a very intricate one, and it is possible that we have not provided for every case. It is therefore necessary to prescribe the way in which any doubt or difficulty which may arise is to be settled. The suggestion has been made that in such a case the matter should be referred for the opinion of the Advocate-General. It is unfortunate that the Advocate General is not here, for I think he would have objected to such a proposal very strenuously. The sole question for decision is the particular municipal authority to which it was the intention of the Government to delegate its power in respect of the function under consideration. That is a question upon which the Government is the best possible authority to give a definite opinion. If in determning any such matter a question of law is found to arise, the Government is able to consult its own legal advisers; but for the most part these are administrative questions, and it is only right and proper that they should be decided by the Head of the Administration."

The Hon'ble MR. APCAR said:—"If a speedy means of ascertaining such matters is necessary, which there is no doubt it is, and as the Government is often in Darjeeling, delays must occur. But the Advocate General is on the spot, and it will be easy to refer to him. The Chairman or the Secretary to the Corporation can go to the Advocate-General, and obtain a decision in

[*Mr. Apcar; Babu Surendranath Banerjee; the President.*]

five minutes. The Local Government may be at Darjeeling, and if a reference is required to the Advocate-General, there may be delay. It does not follow that because the Government has a certain intention with regard to the particular authority by which a certain function should be exercised, they are the best judges of the interpretation of the law as expressed in an Act. There is no question that if the question is referred to the Advocate-General, it will be speedily and satisfactorily decided."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"My hon'ble friend the Member in charge of the Bill has remarked that what has to be determined is the intention of the Government to delegate any particular function to any particular authority. But the question is how is such intention to be determined? It must be determined by the wording of the law. My hon'ble friend may be translated to a higher office; his successor may not be possessed of the same advantages as the Hon'ble Member as to the intentions of the Government, and he will necessarily fall back upon the interpretation of the law as conveyed by the words of the law; and when the intention is to be inferred from the construction of a statute, a lawyer is always the best person to furnish the interpretation. In the great sedition case which recently occurred in Bombay, it was held that any statement regarding the intention of the Legislature to be derived from the discussions in Council was absolutely irrelevant. What the Judge and the jury have to go upon is the clear meaning of the words before them. I do not think we ought to allow ourselves to be entangled in the meshes of a legal interpretation which seeks to unravel the intention of the Legislature. We ought to take the plain meaning of the words, and the fittest person to interpret the meaning of the words in the law is a trained lawyer like the Advocate-General; and, the Advocate-General being the head of the legal profession here, he is the person who ought to be consulted."

The motions were then severally put and lost.

The Hon'ble THE PRESIDENT ruled the following motion, standing in the name of the Hon'ble Babu Jatra Mohan Sen, to be out of order:—

"that at end of sub-section (*3*) of section 23 (*now* 18), the words 'and they (the Corporation) shall have a general power of control over, and power to revise the proceedings of, the General Committee, the Chairman, the Vice-Chairman, the Deputy Chairman, and other officers and their delegates' be added."

[*Babu Jatra Mohan Sen; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble BABU JATRA MOHAN SEN withdrew the following motion, standing in his name:—

"that in section 23 (*now* 13), sub-section (*3*), the words 'except as is in this Act otherwise expressly provided' be omitted."

The Hon'ble Babu Surendranath Banerjee's motion that section 23 (*now* 13), sub-section (*2*), be omitted having been lost, the Hon'ble BABU JATRA MOHAN SEN withdrew the similar motion standing in his name.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 23 (*now* 13), sub-section (*2*), line 1, for "doubt" be substituted "dispute".

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 23 (*now* 13), sub-section (*2*), line 4, all words beginning with "Local Government" be omitted and the following substituted:—

"Corporation for decision.

(*2a*) An appeal shall lie to the Local Government from the decision of the Corporation, and the decision upon such appeal shall be final."

He said:—"My reason for these amendments, shortly stated, is this. I must confess that the word 'doubt' does not seem to me to be very clear or appropriate. Suppose a new Chairman has a doubt in his mind as to what particular authority has jurisdiction in a particular matter. If he has such a doubt, it will be obligatory for him to refer the matter to the Local Government. Suppose he has a doubt whether he or the General Committee should exercise a particular function: he cannot refer it to the General Committee, and apparently the Local Government has to decide without consulting that body or the Corporation. I think the better course will be to substitute the word 'dispute' for the word 'doubt'. That implies that the matter has gone beyond the stage of a mere doubt. And, when a dispute is raised, I propose that the question should go before the Corporation in the first instance, where it will be discussed and decided in the presence of the Chairman as well as the members of the General Committee, and an appeal will lie to the Local Government from such decision."

The Hon'ble MR. BAKER said:—"I regret I cannot accept either of these amendments. As regards the first, the substitution of 'dispute' for 'doubt', it is partly a matter of drafting. The word 'doubt' is wider than 'dispute', and includes it, and it would not be wise to wait until an actual dispute occurred between two municipal authorities. Moreover, there may be no dispute,

because both the municipal authorities may agree that the matter is doubtful; and therefore I think the word 'doubt' is better than 'dispute'. As to the other part of the amendment, that the question should be laid before the Corporation in the first instance and that an appeal shall lie from the Corporation to the Local Government, I cannot accept it. The most frequent doubt is likely to be whether any particular function pertains to the Corporation on the one hand, or to the General Committee or the Chairman on the other: and it would be quite improper to allow the Corporation to be the judge in its own cause. Therefore, I think the Chairman ought to refer the matter at once to the Local Government; and I need hardly say that the Chairman will never be likely to do so, nor will the Government be likely to decide it, before hearing what is to be said on the other side."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"It seems to me to be opposed to the true principles of justice that a matter should be referred to the Local Government without a preliminary discussion by the municipal authorities. Suppose a member of the General Committee has some doubt, it will be obligatory on the Chairman to send the matter to the Local Government. If a member of the Corporation has some doubt, it will also be equally obligatory. I do not think the Local Government should be troubled with such matters until they have first been discussed in the Corporation."

The motions were then severally put and lost.

SECTION 14.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "alteration" be inserted between the words "construction" and "maintenance" in line 1 of clause (*ii*) of section 23A (*now* 14).

He said:—"This is a very small amendment, and I think the Hon'ble Member in charge of the Bill is prepared to accept it. Clause (*ii*) of section 23A (*now* 14) lays down the details of the duties of the Corporation, and by this clause it will be in their discretion to provide for the "construction, maintenance and adornment of public halls," &c. I have in my mind the case of the Town Hall, to which we might make alterations; and I, therefore, move this amendment."

The motion was put and agreed to.

[*Dr. Asutosh Mukhopadhyaya; the President; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name that in section 23A (*now* 14), clause (*vii*), the words "primary and technical" be omitted.

He said:—"Having regard to the decision to which the Council have already come upon the question of allowing the University to send a representative on the Corporation, I do not think any practical good can result from this amendment."

SECTION 15.

The Hon'ble THE PRESIDENT ruled the following motion, standing in the name of the Hon'ble Mr. Apcar, to be out of order:—

that in section 24 (*now* 15), after the word "Act" in line 6, the words "and subject to the general supervision and control of the Corporation" be inserted.

SECTION 16.

The Hon'ble MR. BAKER moved that the following section be inserted, namely:—

"24A (*now* 16). (*1*) In any case in which it is provided by or under this Act that the Chairman may take action subject to the approval, sanction, consent or concurrence of the General Committee, such Committee may, by resolution in writing, authorise him to take such action in anticipation of their approval, sanction, consent or concurrence, as the case may be, subject to such conditions (if any) as may be specified in such resolution.

Power of General Committee to authorise the Chairman to take action in anticipation of their approval, sanction, consent or concurrence.

(*2*) Whenever the Chairman, in pursuance of any such resolution, takes any action in anticipation of the approval, sanction, consent or concurrence of the General Committee, he shall forthwith inform the Committee of the fact."

He said:—"I will briefly explain the object of this amendment. In a number of sections of the Bill we have enacted that the Chairman may take certain action subject to the approval or sanction of the General Committee, and in others we have provided that the Chairman may take action subject to the previous sanction of the General Committee. In reference to the latter class of cases, in which previous sanction is required, I do not propose to make any alteration. The condition as to previous sanction was inserted deliberately, and I do not seek to qualify or restrict it. But with regard to the other class of cases, in which it is not laid down whether the sanction should be previous or not, it seems proper that the General Committee should have power to decide

in which cases previous sanction is necessary and in which previous sanction is not necessary. It may frequently happen that delay in obtaining the sanction of the General Committee might be the occasion of serious inconvenience to the public. I will give one or two illustrations Section 269A (*now* 290) authorises the Chairman, with the consent of the General Committee, to carry a drain through or across a street, or to construct a new drain in place of an old one. A work of that kind might be a matter of extreme urgency. A road might be broken up, and, if previous sanction were required, it might be necessary to wait for a week to obtain the sanction of the General Committee. Then, again, under section 279A (*now* 296), the Chairman may, with the consent of the General Committee, close any connection of a house-drain which has been made in contravention of the law. A connection of that kind, if improperly made, might be a source of great danger to the public, and it would be impossible for the Chairman to wait for sanction before closing such connection. I will give one more illustration. By section 463 (*now* 434) the Chairman may, with the sanction of the General Committee, prescribe the route by which carts or other receptacles employed for the removal of sewage should travel. It might be necessary to change the route all of a sudden, and it might be impracticable to wait for the sanction of the General Committee. These examples will show the kind of cases which the new section, which I propose to introduce, contemplates. In all such cases it would be the duty of the Chairman to take immediate action, whatever the law might be. It would be his duty even to violate the law if the previous sanction of the General Committee is required. But it is not right that the Chairman should be forced to break the law in order to do his duty. We should therefore empower the Chairman to act without the previous sanction of the Committee in those classes of cases in which it may be absolutely necessary for him to act in anticipation of sanction, subject to his subsequently reporting the facts to the Committee."

The Hon'ble MR. APCAR said:—"We were warned when this Bill was introduced that one of the reasons for its introduction was the very fluid state of the law with regard to the functions of the executive; and here, although this Bill has been before the Council for many months, this proposal has not been brought forward during that time, but has to-day for the first time been brought forward here. It is said that in certain cases it will be harmful if there is any delay. There was no such difficulty anticipated when this Bill was introduced.

[*Mr. Apcar; Babu Surendranath Banerjee.*]

The difficulty, I submit, may be met in this way. The Chairman may have his own special functions in these very matters, and there might be an appeal to the General Committee; but under this section the General Committee may altogether give up all their functions and delegate them to the Chairman. I do not think it is the intention of the Act that, when the functions of the General Committee are defined, they may get rid of them and give them to the Chairman. It will depend entirely on the General Committee to say whether they will perform any of their functions at all, or whether they will abide by the decision of the Chairman and simply endorse what is done by him. Under these circumstances, I think such a provision very harmful, for it seems to me to nullify the provisions of the Act. Why not abolish the Corporation altogether, and make it a department of the Government?"

The Hon'ble BABU SURENDANATH BANERJEE said:—"I must join in the protest of my hon'ble friend against the passing of this new section. The ground for its introduction is that the delay in obtaining the sanction of the General Committee might in some cases cause serious inconvenience. But we have the fact that the General Committee will meet once a week, and, if necessary, it might meet twice a week or even oftener. My great objection to the proposal of the Hon'ble Member in charge of the Bill is this: I am in strong sympathy with the executive in doing their duty, but I as strongly object to the delegation of powers to unscrupulous underlings who are likely to exercise them in a manner highly oppressive to the poor, who would not be in a position to protect themselves. I will take, as an instance, the power to cut off any connection made in contravention of the law. Who is to decide whether the connection has been made in contravention of the law? I suppose an underling will decide it; and he will decide according to the amount of the fees he may get. If he finds it to his advantage to decide that there has been a contravention of the law, we know what his decision will be. I speak as a householder; I speak as one who is in touch and sympathy with householders, and I may say this, that when I read this new section, I consulted several friends who were lately leading members of the Corporation, but whose services are now lost to the Corporation, and it is their desire that I should as strongly as I possibly can oppose this provision. It may be necessary on occasions, but the good expected from it will far outweigh the evil which is sure to follow. Therefore, having regard to these circumstances, I hope my hon'ble friend will see his way to drop this section

altogether. It will be difficult for the General Committee to have all the circumstances before them; they could not possibly anticipate the whole situation. The Chairman will delegate the power to his subordinates, who are not always men of principle and honour, and they will work this provision to their own advantage. I think we have given sufficient powers for purposes of sanitation; and such a dangerous power as is now asked for is not needed. It is bound to be attended with oppression, and it is because it will lead to such a result that I earnestly appeal to the Council not to accept this motion."

The Hon'ble MR. BAKER, in reply, said:—"The Hon'ble Member who has just spoken has drawn a very vivid picture of the evils he anticipates at the hands of the underlings of the Corporation if this section is passed into law. But I think he has overlooked the fact, and so also have the friends whom he consulted, that under the present Act the Chairman can exercise all the powers of the Commissioners except those which are expressly reserved for exercise by the Commissioners in meeting. Every one of these powers which it is now proposed that the Chairman may exercise in anticipation of the General Committee's approval, the Chairman does actually exercise now. My hon'ble friend says that under the present Act the actions of the Chairman are subject to the supervision of the Corporation. That is so; but that supervision is exercised subsequently to the action taken by the Chairman. He is not required to obtain their previous approval. Under this provision it will be only in those cases in which the General Committee think fit to authorise the Chairman to act without their previous sanction, that he will be able to do so, and it will be for the sole purpose of avoiding public inconvenience."

The motion was then put and agreed to.

SECTION 17.

The Hon'ble MR. APCAR moved that in line 5 of the proviso to section 25 (*now* 17), sub-section (3), after the word "forthwith", the words "if such documents have then been for a clear week before the General Committee and for a like period before the Corporation" be inserted.

He said:—"The object of my amendment in inserting these words is to allow an opportunity to the Corporation to discuss the annual report, because from my own experience I know the long delay there is in the presentation of these reports. It is one of the points on which the Corporation has insisted

very strongly, and it has impressed upon the Chairman the necessity for the presentation of this report in proper time. The Government, too, has been very severe in their censuro at its delay. There is nothing in the law to prevent the Administration Report being presented a day before the last day when the period for its presentation expires, and that will allow no opportunity to members of the Corporation to look through the report or to state anything in reference to matters which require review or comment; and this amendment is intended to give an opportunity of this being done. I think, therefore, it is necessary to have these words inserted. It is simply to give the Corporation, and the General Committee as well, the opportunity to consider the report, which I think is reasonable."

The Hon'ble MR. BAKER, with the permission of the President, moved by way of amendment that the following proviso be added to sub-section (*3*) of section 25 (*now* 17):—

"Provided further that such documents shall not be forwarded to the Local Government until they have been for seven clear days before the General Committee and for a like period before the Corporation."

The Hon'ble MR. APCAR, by leave of the Council, withdrew his motion.

The Hon'ble MR. BAKER'S amendment was then put and agreed to.

The last-mentioned amendment having been carried, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

(1) that in section 25 (*now* 17), sub-section (*1*), line 2, after the word "April" be added "but not later than the 31st day of May"; and

(2) that the proviso to sub-section (*3*) of section 25 (*now* 17) be omitted.

SECTION 18.

The Hon'ble MR. APCAR moved that in section 26 (*now* 18), sub-section (*1*), proviso (*d*), the words "between sunset and sunrise" be omitted.

He said:—"There is great importance, to my mind, in the circumstance that, when an entry is permitted into any house by any subordinate of the Municipality, the name of the officer should appear. It is considered by the framers of the Bill that it is sufficient for the name of the particular officer to be inserted only if the entry is made between sunset and sunrise. I say that these words

should be eliminated. It is always an important question as to who the officer is, and it will be wise to enter the name of the officer, whoever he may be, when he is given the power to enter a house, in order to fix the officer whose action may be complained against."

The Hon'ble MR. BAKER said:—"I am very strongly opposed to this amendment, as I think it will be the cause of a great amount of delay and trouble and annoyance. There are various sections under which the Chairman has the power to enter premises for various purposes. Under section 189 (*now* 196) he has the power to enter any stable or coach-house to ascertain the number of horses and of carriages kept in it; then again under section 253 (*now* 261) he has the power to enter a house to inspect the water-pipes and water-fittings, and to see whether they are in proper order; under section 293 (*now* 317) he can enter a house to inspect the house drains and privies, to see that the connections are in proper order; under section 391C (*now* 382) he can enter a house which is under construction in order to see whether the provisions of the Building Regulations have been adhered to. It is not intended that the Chairman should perform all these duties with his own hands, but that he should delegate them to the appropriate members of the municipal establishment, and, ordinarily, all these inspections will be made by them. The amendment of the Hon'ble Mr. Apcar will have this effect that whenever any person is deputed to enter a house for any of these purposes, either to see the number of horses kept in a stable or to examine the drainage connections, or to see that the Building Regulations are being observed, it will be necessary for the Chairman to record an order in which the officer's name must be entered. Whenever one of these officers is changed, or whenever any one of them goes on leave, and another is appointed to act for him, it will be necessary for a fresh order to be recorded. That will give rise to a great deal of trouble, and give an opportunity, possibly, to raise purely technical objections as to the legality of the inspection which may be made. I think the proper principle to follow is that there should be a special order containing the name of the officer deputed only when the entry is to be made at night. When the entry is made in the ordinary course of business by day, it will be sufficient for the order to contain the designation of the officer empowered to make the entry."

His Honour THE PRESIDENT said:—"Will the Hon'ble the Mover of the amendment withdraw his amendment?"

[*Mr. Apcar; Babu Surendranath Banerjee; Mr. Bolton; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. APCAR said:—"I wish it put to the vote. I think it necessary that the name of the officer should be entered in all cases."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "conferred by section 59 (*now* 65)" at the end of proviso (*b*) to section 26 (*now* 18) be omitted.

He said:—"This is in the nature of an enquiry. I do not see any power of delegation under section 59 (*now* 65)."

The Hon'ble MR. BOLTON said:—"I also see no delegation given under section 59 (*now* 65)."

The Hon'ble MR. BAKER said:—"I did not at first understand what was meant, but on consulting the learned Assistant Secretary, who is an accomplished draftsman, I was told that the words referred to relate to the Chairman's power to appoint."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As the matter appears to be so doubtful, and as both the Hon'ble Members who have spoken were in doubt, I think the point ought to be cleared up."

The Hon'ble MR. BAKER said:—"As the Act will be construed by lawyers, I think it is better to leave it as it is. I do not attach much importance to it. As a matter of drafting, the Secretary prefers to leave the words in."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 26 (*now* 18), line 3, after the word "officer" be added "appointed under section 28A (*now* 25), section 28B (*now* 26), or section 57 (*now* 63), clause (*a*)."

He said:—"I confess I am not in favour of an unlimited power of delegation of authority being vested in the Chairman; and the object of this amendment, therefore, is to enable the Chairman to delegate his authority only to the superior officers of the Corporation. I ask the Council to accept this amendment on the ground that the Chairman ought not to delegate his powers, except to the officers named in the sections referred to. It has often been said

that the justification for vesting so much power in the Chairman is that he is an officer of high rank and character and of great experience; but if you leave it open to the Chairman to delegate his power under this Bill to any municipal officer he thinks fit, the advantages of that guarantee will vanish. You will have no guarantee that the same qualifications and judgment and the same uprightness will be found also in the officer to whom these powers will be delegated. If it were true that the powers vested in the Chairman are purely ministerial, that is, if the exercise thereof did not involve discretion and confidence, then there would be no objection whatever to allow him to delegate such powers; but it seems to me that, having regard to the very large powers conferred upon the Chairman, it would not be safe to allow him to delegate those powers to any and every municipal officer. I am prepared to be told that my amendment will be very inconvenient. But if there is a limited delegation, you have every chance of the delegated authority being exercised skilfully and without oppression; and as the officers to whom I have referred are many and represent almost all departments of the Municipality, I do not think any inconvenience would be caused if the delegation of the Chairman's powers is confined to these officers."

The Hon'ble MR. BAKER said:—"I am not going to say that the amendment is inconvenient. I am going much further than that. I am going to say that it is absolutely impossible, and that it would bring the whole work of the Municipality to a standstill in 24 hours. My hon'ble friend, the mover of the amendment, has not realised the effect of it, or I am certain he would not have moved it. The effect of the amendment would be to prevent the Chairman from delegating any of his powers except to the Vice-Chairman, the Deputy Chairman, and the eight heads of departments mentioned in section 57 (*now* 63). In the first place, the Vice-Chairman and Deputy Chairman are not municipal officers at all. They hold a status intermediate between municipal officers and the Chairman, and, therefore, the form of the amendment in respect of them is incorrect. But that is a matter upon which I lay no stress. The Bill imposes a very great number of powers and duties, nominally upon the Chairman, not with the intention that he should perform all those duties with his own hands, which is manifestly impossible, but with the intention that in each case he should delegate them to the appropriate member of the municipal establishment to carry out. By section 253 (*now* 261) the

Chairman is empowered to enter any premises for the purpose of examining pipes, taps, and other water-fittings. It is not intended that he should examine every house himself and see that these things are in proper order, or that the Engineer should go and examine these things. What it means is that they are to be inspected by the Water-works Inspectors, of whom there are a certain number and whose business it is to go to the houses and make an examination under the supervision of the Engineer and the Chairman. Similarly, under section 293 (*now* 317), the Chairman is empowered to examine house-drains to see that they are in proper order. This work is actually done by the Drainage Inspectors under the supervision of the Engineer. I could give a number of instances to explain further what I mean, but it is unnecessary to do so. If this amendment is carried, the actual work of inspecting and examining some 20,000 water-connections, 5,000 connected and 50,000 unconnected privies, would have to be carried out by the Chairman himself. I need say nothing more to show how impracticable the amendment is."

The Hon'ble MR. BUCKLEY said:—"I wish to add one word to what the Hon'ble Member in charge of the Bill has said. To my mind the object which these gentlemen have in view in refusing to delegate this authority will defeat their purpose. As the Hon'ble Mr. Baker has pointed out, there are a number of duties to be performed by these officers. In connection with these duties there are a number of detailed rules, and it is physically impossible that the Engineer, who has to deal with all these things, can inspect more than a small fraction of them. I believe myself that one great reason why so much bribery and corruption exists amongst the lower subordinates of the Municipality is that very fact that some one specified authority has not the power to deal with these matters. I have had considerable experience in my dealings with large irrigation works, where a number of petty officers have to exercise large powers concerned with the doling out of water to cultivators, who are always ready and willing to pay a great deal to get more than they are entitled to get. The system which we have there is one which, I think, is wanted here, and which will in a very great degree check the corruption and bribery which, I believe, goes on more or less in the Municipality. We have, in every sub-division, an officer getting very much less than Rs. 1,000 a month who has absolute authority up to a certain point. On certain days of every week cultivators can come to him personally and state their grievances, and he

passes orders personally in each case. If you have officers, of the standing of the men I have referred to, with definite powers in certain matters, I believe they would do a great deal to check the enormous inflictions upon the people here which are said to be practised. It was stated in the Select Committee that it is no uncommon thing for applicants to pay as much as Rs. 20 for permission to erect privies. I believe the motion now before the Council will have the very worst effect, and entirely defeat the object of the proposal."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My advice to my hon'ble friend will be to withdraw this amendment, because I feel the force of the remarks which have been addressed to the Council by the Hon'ble Member in charge of the Bill and by the Hon'ble Member who has just spoken."

The amendment was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 26 (*now* 18), proviso (*b*), line 4, after "employé" for the comma be substituted a semi-colon and for "or" be substituted "nor shall the Chairman delegate to any municipal officer."

He said:—"I hope this amendment is not open to the objection of impracticability. As I understand this proviso, it means that the delegation of power to a particular officer includes the power of fining, reducing, suspending or dismissing his immediate subordinates; and the object of my amendment is to make the Chairman the sole authority in the Corporation to fine, reduce, suspend, or dismiss an employé. No doubt it will be said that this is illogical, and that the same authority which appoints a particular officer should also have the authority to dismiss him. That may be good logic, but it seems to me that things would work better if the Chairman had final authority in this matter. I submit there is a good deal of difference between appointing an officer and dismissing him under delegated authority. If he has been improperly appointed and does not do his work satisfactorily, he may be turned out, but if he has been unjustly turned out, then he has no remedy; besides it may often happen that the man who has appointed him under delegated authority is his immediate superior, and he may not be in a position to form an impartial opinion upon the conduct of the man he has appointed. I admit that in the first instance action will have to be taken upon the report of the immediate superior,

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

but the final decision in the matter ought to rest with the Chairman. I do not make any secret of the fact that I have greater confidence in the judgment and uprightness of the Chairman than in those of any inferior authority."

The Hon'ble MR. BAKER said:—"I think that the principle that the power to appoint an officer or servant, carries with it the power to punish, is not only good logic, but is also eminently practical. The effect of this amendment, if carried, will be that if any municipal servant, however low his rank, even if he be a menial, absents himself from his duties, or commits a small offence, it would be impossible for the head of the department to fine or dismiss him, and it would be necessary for him to refer the matter for the orders of the Chairman. I cannot see that there will be any advantage in adopting this amendment, either in the interests of the servant or the administration. The hon'ble mover of the amendment admitted that, in the first instance, the Chairman would have to act upon the written report of the officer or superior servant. That is one of the objections I have to the amendment. If the power of fining or suspending or dismissing is delegated along with the power of appointing, then an appeal can be allowed to the Chairman quite independently. But if you insist that the Chairman shall actually pass orders in every case of the infliction of punishment, then you take away the whole power of appeal, because the Chairman, not knowing the facts, will have to depend upon the report of the head of the department."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I wish to say one word in support of the amendment of my hon'ble friend. The amendment embodies the existing practice; that is to say, orders for fining, suspending and dismissing subordinate officers and menials are passed by the Chairman on the report of the departmental head. I do not think that practice has been attended with inconvenience. On the other hand, I do not know that any complaint has ever been made, and the system has worked satisfactorily. I quite admit that, if the immediate head of the department had the power to suspend, there should be an appeal to the Chairman. But what is the value of an appeal in most cases in this country? There is a feeling, an *esprit de corps*, running through all ranks of the service which induces a superior to support his subordinate. It is, therefore, as well that the full responsibility of an order of dismissal or fine should rest with the Chairman. This is the existing practice, and it has worked well."

[*Mr. Oldham; Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen.*]

The Hon'ble MR. OLDHAM said:—"I remember that my hon'ble friend Babu Surendranath Banerjee took the same objection in Select Committee, and used the same arguments there, and I thought we had been able to explain the matter to him there. When he says that in this country the appellate authority as a formal matter declines to interfere, that applies to the fourth or fifth stage of an appeal. That is the order of the final revisional authority after the appeal has passed through the gauntlet of two or three appellate authorities. He is mistaken in thinking that in every case it would be possible to deal with an appeal in that way. An appeal must be heard by one authority, and probably also by a second authority. It is only the final authority that may use the formula of rejection: certainly not the second authority. Therefore I from my own experience in such matters fully concur with the objection taken by the Hon'ble Member in charge of the Bill. I think the provisions of the Bill, as they stand, are very much more in favour of subordinate officers, who will have a very much more favourable chance if their cases can be heard by the Chairman in appeal than if they are finally punished in the first instance by the Chairman acting on departmental reports."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"It strikes me that on Saturday last we started with a very unsound principle. We were told that there are to be three co-ordinate authorities. That is a rosy myth. It now appears that there are a hundred co-ordinate authorities, namely, the Corporation, the General Committee, the Chairman and the numerous band of his subordinates. You justify this by alleging that it is impracticable for the Chairman to do all that the law requires him to do, and that he must necessarily delegate his powers; but what guarantee is there that he will exercise any effective control over his subordinates? You practically abandon the principle of three co-ordinate authorities."

The motion was then put and lost.

The Hon'ble BABU JATRA MOHAN SEN, in the absence of the Hon'ble Raja RANAJIT SINHA BAHADUR of Nashipur, moved, on behalf of the latter, that the words "with the approval of the General Committee" be inserted after the words "The Chairman may" in sub-section (*1*) of section 26 (*now* 18).

[*Mr. Baker.*]

The Hon'ble MR. BAKER said:—"I cannot agree to this amendment. I think it is quite wrong in principle. The Chairman is a co-ordinate authority, and he is empowered to delegate powers in respect of which he has independent authority; and, in respect of powers in regard to which he is independent, it is not right that his powers of delegation should be subject, to the control of any of the other co-ordinate authorities."

The motion was put and lost.

The Council was then adjourned to Tuesday, the 12th September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Asst. Secy. to the Govt. of Bengal,
Legislative Dept.

Reg. No. 7736—300—7-3-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Tuesday, the 12th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANLDEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

THE CALCUTTA MUNICIPAL BILL.

SECTIONS 21 TO 24.

The Hon'ble THE PRESIDENT said:—"We now come to item No. 83 on the *agenda*."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have the honour to move the amendments which stand against my name, and I think, Sir, it would be as well to take all these amendments together, so that there might be one speech upon them. I just wish to make one correction."

[*The President; Babu Surendranath Banerjee.*]

The Hon'ble THE PRESIDENT said:—"Will the Hon'ble Member explain to the Council which amendments he refers to."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The numbers are 83, 84, 85, 86, 87, 88, 92, 93 and 94. I just want to make one correction, with Your Honour's permission. It may be my mistake or the printer's, but there is a mistake. In item 85 we have section 459. There is no such section in the Bill—it ought to be section 459A, and the same correction has to be repeated in item 86."

[The Hon'ble BABU SURENDRANATH BANERJEE's amendments were as follows:—

No. 83.—That the following words be inserted after the words "The Local Government may," in line 1 of section 26D (*now* 22),* namely:—

"on complaint made."

No. 84.—That after the word "duties" in line 1 of clause (*a*) of section 26E (*now* 23), the following words be inserted:—"relating to matters concerning the public health;" and that the words "inefficient or unsuitable" in line 5 of the same clause be omitted.

No. 85.—That for clause *a*) of section 26E (*now* 23), the following be substituted:—

"that the provisions of section 23A, clause (*1*), and of sections 24, clause (*c*), 127, 221, 225, 254C, 268, 269, sub-section (*1*), 292G, 327, 328, 453, sub-section (*1*), 459A, sub-section (*1*), 459D and 497 (*now* sections 14, clause (*1*), 15, clause (*c*), 133, 237, 240, 267, 288, 289, sub-section (*1*), 309, 337, 338, 422, sub-section (*1*), 429, sub-section (*1*), 432 and 475 have not been duly carried out or enforced, and the default made is of a serious character."

No. 86.—That for clause (*a*) of section 26E (*now* 23), the following be substituted:—

"that the provisions of section 23A, clause (*1*), and of sections 24, clause (*c*), 127, 221, 225, 254C, 268, 269, sub-section (*1*), 292G, 327, 328, 453, sub-section (*1*), 459A, sub-section (*1*), 459D and 497 (*now* sections 14, clause (*1*), 15, clause (*c*), 133, 237, 240, 267, 288, 289, sub-section (*1*), 309, 337, 338, 422, sub-section (*1*), 429, sub-section (*1*), 432 and 475 have not been duly carried out or enforced."

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*The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Babu Surendranath Banerjee.*]

No. 87.—That the words "in an imperfect, inefficient or unsuitable manner or" in lines 4 and 5 of clause (*a*) of section 26E (*now* 23) be omitted.

No. 88.—That the following amendments be made, namely:—

(*1*) that the words "or unsuitable manner or" in line 5 of clause (*a*) of section 26E (*now* 23) be omitted;

(*2*) that clause (*b*) of section 26E (*now* 23) be omitted;

(*3*) that clause (*ii*) of section 26E (*now* 23) be omitted;

(*4*) that at the end of sub-section (*2*) of section 26E (*now* 23), the following be added:—

"and, upon the receipt of such petition of appeal by the Local Government, no further action shall be taken by the Local Government without the orders of the Government of India;" and

(*5*) that sub-section (*3*) of section 26E (*now* 23) be omitted.

No. 92.—That the lines beginning with the words "and, if necessary, that any one or more of the rates or other taxes" up to the end of clause (*c*) of section 26F (*now* 24), be omitted.

No. 93.—That sub-section (*3*) of section 26F (*now* 24) be omitted.

No. 94.—That sub-section (*4*) of section 26F (*now* 24) be omitted.]

"Well, Sir, in moving these amendments, I desire to guard myself against any misapprehension to which my remarks may give rise. I fully recognise the fact that the Corporation exercises delegated authority; authority derived from the Government, which is the fountain source of all legal authority. The Corporation is an emanation, an off-shoot, of the sovereign power, and the sovereign power has the right to exercise adequate check and control over the proceedings of the Corporation. Sir, nobody disputes that the Government has the right in the abstract to assume those very large powers which it proposes to assume under the provisions of this Bill. But, Sir, as one of the greatest philosophers that ever lived—Edmund Burke, a name honoured and respected throughout the civilised world—observed, the limits of moral competence are not to be confounded with the limits of competence in the abstract. There are a great many things which a Government may do in the exercise of its supreme and sovereign authority, but these things a Government never does, being deterred by the highest considerations of morality and expediency. I am free

[*Babu Surendranath Banerjee.*]

to admit, therefore, that the Government of Bengal has in the abstract the competence to assume the powers of control which it proposes to assume under the provisions of this Bill; but the question which we have to consider is this: whether, having regard to all the circumstances of the case, it is right and proper and expedient in the highest sense that these drastic—I was going to say dangerous—provisions of the Bill should be enacted into law.

"Sir, the object of these amendments which stand against my name is to place the provisions of the Bill upon the same footing as the provisions of the English Public Health Act, or at any rate those of the Bombay Municipal Act. Sir, let me briefly explain the nature of my amendments. In the first place, I recommend that the intervention of the Government should be confined to matters relating to public health, and to them alone. If this view be not acceptable to the Council, then I suggest that the Bombay model should be followed, and the interference of the Government should be restricted to default committed by the Corporation in respect of specific duties imposed by specific sections of the Act. In regard to both these recommendations, I suggest that in no case should the Government have the power of raising the rates or contracting a loan on behalf of the Corporation. I have no hesitation in saying that the provisions of the Bill are far more stringent and drastic than the provisions of the English Public Health Act, or the Bombay Act, or the Calcutta Municipal Act, or, indeed, the provisions of any Municipal Act with which I am acquainted. Let me for a moment institute a comparison between the provisions of the Bill and the existing law. Under the existing law the Government can only interfere on complaint made. Under the Bill, Government may interfere in any case whether a complaint is made or not. I am glad to be able to say, from information given to me yesterday by the Hon'ble Member in charge of this Bill, that the Government proposes to make a modification in this respect, and the Government has signified its intention not to interfere except upon information given. That is a concession for which we are thankful; but, Sir, the point of difference between the existing law and the Bill is that the provisions of the Bill go very much beyond the present law. Under the existing law, the Government can only interfere when general default, and that of a serious character, is made. Under the Bill the Government may interfere when any default of any kind, general or particular, serious or otherwise, is made. Nor is this all. The intervention of the Government as provided in the Bill extends over the entire domain of municipal administration and even to the manner in which the work is

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performed, because the Bill lays down that, when work is done imperfectly or in an unsuitable manner, the Government may interfere. Then, Sir, under the present law, if an appeal be preferred to the Supreme Government by the Corporation against the order of the Local Government, the work must be suspended. Under the Bill the work will proceed. Under the existing law the Government may recover from the Corporation the expenses of any work carried out under its orders in pursuance of these sections. Under the Bill the power of raising the rates or contracting a loan is reserved to the Government. Sir, it has been said more than once—said by hon'ble gentlemen from their places in this Council, said in the public prints—that we have no right to complain. These provisions may be very drastic, very stringent, very rigorous in their character, but they are all based upon the English Public Health Act. Sir, it has been with me a matter of oft-repeated complaint—and I desire to repeat the complaint once again—that while the municipal system of the Empire is laid under requisition to pile one drastic provision upon another, the beneficent provisions of that legislation are completely hidden from our view. You tell us that these provisions are based on the English system, but you deny to us the beneficent provisions of the English system. The Municipal Councillors in England exercise supreme and paramount authority as forming the Corporation. The executive is responsible to the Municipal Councillors. There is no sort of interference with the internal administration of British Corporations. Naturally enough, the measure of control from without is proportionately more rigid. But, Sir, I dispute the proposition altogether that these provisions are drawn from, or are substantially analogous to the provisions of, the Public Health Act. The English Public Health Act restricts the interference of the Government to matters of public health and to matters of public health alone. As for the provisions in the Bill, the interference of the Government may be invoked in respect of any matter relating to the municipal administration of the town, and, as I have already pointed out, the Government may interfere if municipal work has been performed in an unsuitable manner. Then, Sir, under the English Public Health Act, the Local Government Board may recover the expenses from any municipal authority, but the Local Government cannot raise the rates or incur any loan on behalf of any Corporation. Therefore, Sir, the provisions we are now considering go very much beyond the provisions of the Public Health Act on which they are ostensibly based, and they go very much beyond

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the powers conferred on the Government by the Bombay Municipal Act. Let me recall to the minds of Members of this Council the provisions of section 518 of the Bombay Municipal Act. It is not necessary for me to read the section. Section 518 lays down that the Governor in Council may interfere only when default has been made in respect of duties imposed upon the Corporation by specific provisions of the Act which are mentioned in the section.

"I follow the lines of the Bombay Act, and I say if the provisions of section 23A (*now* 14), clause (*l*), of section 24 (*now* 15), clause (*c*), and of the other sections mentioned in my amendment; if these provisions are not carried out, then the Local Government may interfere. In fact, the sections which I have inserted in my amendment go very much beyond the provisions found in the Bombay section 518. Therefore, Sir, we have it under the Bombay Act that upon complaint made in respect of any default committed, in respect of certain specific duties imposed upon the Corporation by specific sections, the Government may interfere. But the provisions of the Bill go very much beyond that. Therefore, Sir, I am right in my contention that the sections relating to control as provided in this Bill are far more stringent than those to be found in the English Public Health Act; they are far more stringent than those of the Bombay Act, and far more stringent than the present Calcutta law. And, Sir, I am justified in asking the question, what is the excuse, what is the justification, for such stringent and drastic legislation? Have you tried the existing sections, and have you found them to be inadequate? Have you put them to the test, the ordeal of actual experiment? Have you tried them and have you found that they have failed? No, Sir, you have slept over them; the Government of Bengal has been wanting in its duty so far as the carrying out of the sections of control is concerned. These sections were there in the statute-book, giving the Government vast and varied powers. Those powers were never once put into requisition for the benefit of the Corporation, and then you come forward, and say: 'We want more powers.' I ask, is this a rational or a logical proceeding to adopt? I could understand the proceeding if the powers had been tried and had been found wanting, and if the Government had come forward with a request, as the result of actual experience, that those powers should be enlarged; but the Government never put to the test the powers of control it possessed. We know not what may be the faults of omission or commission on the part of the Corporation, but this I will venture to say with all emphasis, that for their faults of omission and commis-

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sion the Government of Bengal is directly responsible. It was the business of the Government to have guided, led and controlled the Corporation in its arduous duties. The Government did nothing of the kind. If faults have been committed (and what institution is there in the world which is free from faults?), the Government is responsible. And not only that; the Government has approved of everything contained in the Municipal Administration Reports year after year. And, Sir, I have a lurking suspicion in my own mind that if a Commission of Enquiry was appointed, and if some of us had the opportunity of giving evidence before such a Commission, a case would be made out, if not against the Corporation, at any rate against the Government of these Provinces. I cannot dive into the secrets of Government, but it seems to me that, having regard to the circumstances to which I have adverted, having regard to the duty which was incumbent upon the Government, and to the non-performance of that duty, the Government owed it to itself to appoint a Commission of Enquiry to clear itself of an imputation which men like myself would bring against the Government for laxity in the supervision of the work of the Corporation. Well, Sir, however that may be, there is the fact that these powers were there embodied in the law of the land. These sections gave Government vast and varied powers of control; these sections were a dead letter; they were never enforced; and the Government now ask for more powers. Sir, I venture to say that if ever there was an occasion for the relaxation of the powers of control, that occasion has now arrived. Let me remind the Council of the state of things which existed during the days of the Justices. In the law of 1863 you do not find any powers of control deserving the name. And why not? Because at that time the Municipality formed more or less a department of the Government. The Justices were all the nominees of the Government. The Justices were in many cases the servants of the Government. As Sir Richard Temple said from his place in this Council, that, being the nominees of Government, they were in sympathy with the views of Government; they might be trusted to carry out the wishes and intentions of Government. The Municipality, therefore, being more or less an official bureau, it was not necessary for the Government to reserve powers of control from without. As they were exercising active powers of interference from within, powers of control from without were considered superfluous. And now, Sir, under the Bill that is before us, are we not going back to the days of the Justices? *The Times* newspaper is my authority. *The Times* says that this Bill contemplates 'a

partial reversion,' I quote the words, 'to the methods of centralised official control.' We are going to have official control substituted in the place of popular control. We are going to have the Municipality reduced once again to a department of the Government. If so, is it necessary to reserve these stringent powers of control? At any rate, is it necessary to make these powers of control more stringent than they are at present? It is reversing the natural order of things, and that is what this Bill does, not only in this case, but throughout. Let me point out to the Members of this Council that in 1876, for the first time, the powers of control were reserved to the Government. When the Corporation was constituted upon a popular model, such powers of control became necessary. The Government, having given up the right of active interference from within, claimed and asserted their right to control the Municipality from without. Well, Sir, the powers of control being assumed by the Government, provisions were introduced into the Bill of 1876 which were very similar to the provisions we are now considering, and what was the result? There was a strenuous opposition offered to these provisions of the Bill, and a petition was presented to the Government of Bengal. I will read an extract from that petition. I have, however, to point out in the first place that it was a petition not presented merely by the Indian inhabitants of the town; it was a united representation emanating from both sections of the community—a representation headed by the illustrious leaders of both the European and Indian communities. I will read an extract:—

'That your memorialists would suggest for Your Honour's consideration in Council that in their view the principle of free election contained in the Bill is completely nullified by the absolute power of active interference reserved to the Government; and that, even on the supposition that the power would never be exercised, still so grave a distrust is exhibited of the possible abuse of the franchise proposed to be conferred, that no citizens possessed of self-respect and enlightened views, and commanding the confidence of the public, would consent to act as the members of a Municipality subjected as they would be by the provisions of the Bill to the perpetual threat of the interference of the Government; and your memorialists entertain grave forebodings that the Municipality would in consequence be deprived of the services of the most zealous, conscientious, and upright of the residents in Calcutta.'

"This was a memorial submitted in 1876, and it bore the names of the most distinguished citizens of that time. I will refer only to six names; three from the European community and three from the Indian community. Among the European signatories were Mr. Brooks, at one time the respected President of the Trades Association; Dr. Ewart, a Professor in the Medical College—those

were the halcyon days when Government servants retained a much larger measure of independence than they now possess. And then the last of the names to which I shall refer is the honoured name of John Blessington Roberts. The Indian signatories contain the most illustrious names of this generation—I might almost say of this century. Foremost among them were the honoured names of Kristo Dass Pal, and of Rajendralal Mitter and Degumber Mitter. Sir, I have a question to ask of my two hon'ble friends who so worthily represent the interests of the European community in this Council—whether they are prepared to affirm, as their leaders affirmed in 1876, that if these drastic provisions of the Bill are embodied in the law of the land, no self-respecting members of the European community will consent to act as Municipal Commissioners? I know not, Sir, what their answer will be. I have no right to know—I have hardly a right to ask. But, as representing the Hindu community, as a member of that community, I will say this, that we venerate the memories of our great dead; of those men who fought for us in the past; fought valiantly for us in the past; fought, it may be, alas, too often unsuccessfully. We venerate their names, and we once more re-affirm in 1899, as they affirmed in 1876, that if these drastic provisons become the law of the land—if local self-government is reduced to a nullity—no self-respecting member of the great Hindu community will consent to have part or share in the municipal administration which is to be inaugurated on the 1st of April next."

The Hon'ble MR. BAKER said:—"The Hon'ble Member began his exceedingly interesting and eloquent speech by stating that the control powers of the Bill were much more stringent than those of the English Public Health Act or of the Bombay Act, and that the object of his amendments was to place the provisions of the Bill on the same footing as those of the English statute and the Bombay Act. It will be my duty to show that the provisions of the Bill are not one whit more stringent than those of the English Public Health Act, and that, in some important particulars, they are less stringent. The Hon'ble Member, referring to the constitution of 1863, stated that at that time no provision was made for Government control for the reason that under the administration of the Justices the Municipality was a department of the Government. Now he said Government is going to revert to that system; the old system. The Municipality, he said, is going once more to be a department of the Government. Therefore, the time has come when we should withdraw the powers of control hitherto reserved to Government. Sir, I challenge

that statement altogether. I deny absolutely that local self-government is being withdrawn from Calcutta. As you, Sir, pointed out in your speech of the 7th August, what we are doing now is merely to change the form of local self-government. The essence and the substance of it will remain as flourishing and vigorous as before. What we do is to withdraw the undue preponderance of power which has hitherto rested in the hands of a single class, and to arrange that it shall be distributed for the future on a more equitable and proportionate basis. As to the memorial of 1876, in which it was stated that if similar provisions to these were enacted into law, no self-respecting citizens would consent to serve on the Corporation ; it is a sufficient reply to say that, under provisions exactly similar to these, self-respecting men of every class and of every rank in life are at this moment, and have been for many years, sitting in Municipal Corporations in England.

"I will now turn to the specific amendments which the Hon'ble Member has moved. These four sections—sections 26C to 26F (*now* 21 to 24)—are among the most important sections in the Bill. They were most carefully considered by the Local Government in detail before they were submitted to the Select Committee. They were approved by the Select Committee almost without modification. They have been singled out by the Government of India for special and hearty approval, and I hope they will commend themselves to this Council without further change. As the Hon'ble Member has said, Sir, it is intended to consent to one small modification to meet his views as expressed in his first amendment. In section 26D (*now* 22) the Hon'ble Member has proposed to insert the words 'on complaint made.' To meet those views you have consented, Sir, to accept the insertion of the words 'on receipt of any information.' I understand that the Hon'ble Member will be satisfied with that alteration."

The Hon'ble BABU SURENDRANATH BANERJEE:—"There is one observation I will make later on. I cannot say I am satisfied. I have to make the best of what I can get."

The Hon'ble Mr. BAKER:—"I understood yesterday that the Hon'ble Member accepted this. However, let that pass. I should like to give a very short sketch of the history of these control sections. It has been one of the weakest parts of the municipal system in the past that neither under the law of 1876 nor under the law of 1888 has there been any effective system of control,

and it is my belief that many of the shortcomings which have been noticed in the Calcutta Corporation have been due to that defect. In the Act of 1876 it was provided that if it shall appear to the Local Government that the Commissioners have failed to make adequate and suitable provision for the cleaning and the conservancy of the town to an extent likely to be prejudicial to the inhabitants of the town, or of any part thereof, the Government was empowered, by notification in the Gazette, to appoint a special Commission. One of the members of the Commission was to be the Sanitary Commissioner; another was to be appointed by Government, and the third was to be the representative of the Corporation. The Commission was to make enquiry, and was to report, within a fixed time, whether in its opinion the cleaning and conservancy of the town were deficient to an extent likely to be prejudicial to the health of the inhabitants, and, if so, to specify what further provision should be made. On receipt of their report, the Government was empowered to fix a time within which the default should be made good, and, if that order was not complied with, the Government was empowered to cause the work to be done at the cost of the Corporation. That, Sir, briefly was the system of control adopted in 1876. Now the most obvious defect in this form of control is that it seeks to make the exercise of the Government control subject to the decision of a species of court. The enquiry made by the Commission was a sort of judicial trial in which the Corporation were the defendants. Witnesses had to be called and examined and cross-examined, and the decision had to be based on definite and precise findings on the evidence. Not the least drawback to this arrangement was the irritation which the proceedings caused in the minds of the Commissioners themselves, who found themselves publicly charged and brought to trial almost as if they were criminals. Instead of regarding the orders of Government as the injunctions of a superior authority based on wider experience and fuller knowledge, they were encouraged to dispute the premises and resist the conclusions of Government by all the devices and artifices with which courts of law in this country are only too familiar. A still more serious objection to this system was that it sought to substitute judicial for administrative control. Professor Maltbie, in his standard work on *English Local Government of To-day*, in describing the three forms of central control for self-governing bodies—legislative, judicial, and administrative control—makes the following remarks:—

'The judicial control aims primarily to protect private rights and to prevent the officers of the Government from exceeding their powers. It is only occasionally and incidentally

that other purposes are sought in its exercise. As a form of central control, whose object is administrative efficiency, it is unimportant.'

"No judicial body, whether a special tribunal such as was provided in 1876, nor the ordinary courts of the country, is capable of exercising administrative control efficiently. Any system which seeks to impose that duty upon them is unsound at its root.

"Well, Sir, the system of 1876 was only brought into operation on one occasion—in 1885—on the complaint of the Calcutta Public Health Society. That was the occasion when Mr. Beverley's Commission was appointed. I will not weary the Council by describing the proceedings of that Commission, which were not very edifying. A considerable delay took place before the report was submitted; an immense amount of ill-feeling and irritation was occasioned, and the final results were scarcely commensurate with the trouble which had arisen. That single instance was sufficient to show that the system of 1876 was cumbrous and ineffective. Accordingly, when the law was amended in 1888, the opportunity was taken to revise the system of control, and, on that occasion, the framers of the law had recourse to the English Public Health Act of 1875. The clause, which became law as section 38 of the Act of 1888, runs as follows:—

'Upon complaint made to the Local Government that the Commissioners have made general default in the performance of any of the duties referred to in the last preceding section, the Local Government, if satisfied, after due enquiry, that general default has been made, and that it is of a serious character, may make an order intimating a time, not less than thirty days from the date of the order, for the performance of such duty by the Commissioners; and, if such duty is not performed within the time limited in the order, the Local Government may appoint some person to perform the same, and may direct that a reasonable remuneration to the person so appointed, the amount whereof is to be specified, and also the expenses of performing such duty, shall be paid by the Commissioners out of the moneys levied by them under this Act.

'Any person appointed under this section to perform any duty of the Commissioners shall, in the performance and for the purposes of such duty, be invested with all the powers of the Commissioners.'

"There was also a provision by which the Commissioners might submit an appeal to the Government of India against the orders of the Local Government, and it was provided that no action should be taken in pursuance of the order, pending the decision of the Supreme Government.

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"This arrangement avoided the defects of the former system of 1876, but, unfortunately, it included other defects of its own, and these defects have rendered the system of 1888 as inoperative as the system which it superseded. That, Sir, is the explanation why Government has not been able to put this system actually into force. I will specify what these defects were. In the first place, action can only be taken by Government upon complaint made. Well, I do not wish to dwell very much upon this, because after all complaints would no doubt come in quickly enough if it was known that they were desired. But I may mention that the framers of the law of 1888 overlooked the fact that, in the English Public Health Act, there is another provision in section 293 by which the Local Government Board is empowered by means of its travelling inspectors to make an enquiry into any matter within the purview of the Act in any Corporation, and they may take—this is not expressly provided for in the Act, but I am informed that is the practice—they may take action upon the report of one of these inspectors. Then, Sir, under the Act of 1888, action can only be taken where there has been general default by the Corporation in performing its obligatory duties, and also where such default is of a serious character. There is no such limitation or restriction in the Public Health Act. The provisions of the English Public Health Act authorise the Local Government Board to intervene not only in a number of cases specified in section 299 of the statute, but also whenever a local authority has made default in enforcing any of the provisions of the Act, which it is their duty to enforce. In other words, Sir, the Local Government Board has the power to take action in case of default in respect of every matter covered by the Public Health [illegible] It is not necessary that the default should be general or that it should [illegible] a serious character. Then, again, the Act of 1888 provides for an appeal [illegible] the Corporation to the Government of India, and lays down that all action is to be stayed pending the decision of the appeal. I need hardly say that, under the provisions of the Public Health Act, there is no appeal whatever to a higher authority. The decisions of the Local Government Board are final in every case. It is possible that the Hon'ble Member may say that the Local Government Board is a Board of high dignity; that it is presided over by a cabinet minister, and that it includes among its members all Her Majesty's principal Secretaries of State. If the Hon'ble Member thinks so, I would point out now, by way of anticipation, that the Local Government Board is not in practice constituted in this way. The Local Government Board

is a Board of the class which the Hon'ble Member described yesterday in terms of approval; it is a one-man Board. The principal Secretaries of State are only nominally on the Board; the papers are never sent to them; they have nothing whatever to do with the orders issued in its name.

"Now that the present law of 1888 is under amendment, we consider it expedient to recast the sections of control, and to endeavour to eliminate the defects I have described; to assimilate the provisions of our law more closely to those of the English statute, with such modifications as may be necessary to suit the conditions of Calcutta. And I will describe briefly what the provisions are which it is now proposed to enact. In the first place, in section 26C (*now* 21), we take power to Government to call on the Chairman for reports or returns on any matter under the control of any municipal authority. This section is new, as part of the law, but it merely gives effect to the existing practice, and the necessity and the propriety of it are obvious. Secondly, in section 26D (*now* 22), we give Government power to inspect and enquire into any work or department under municipal control. The enquiry is to be carried out by means of officers deputed for the purpose, and we give those officers the necessary powers for carrying out that inspection. This provision is based on section 293 of the English Public Health Act, and it corresponds to the power which is exercised by the Local Government Board through its travelling inspectors. The powers are supplemental to the power of calling for reports from the Chairman, and they are obviously necessary if Government is to obtain the requisite information before taking action. Then, Sir, we provide in section 26E (*now* 23) that, if, as a result of such report or enquiry, the Government is of opinion that any of the duties imposed on any municipal authority under the Act have not been performed or have been performed in an imperfect or inefficient or unsuitable manner, or if financial provision has not been made for the performance of any duty, Government may call upon the municipal authorities to make good the default or to show cause to the contrary. This provision corresponds to section 299 of the English Public Health Act, but there is a significant point of difference. Under the English statute the defaulting party has not the option of showing cause against the order of the Local Government Board. When the Hon'ble Member denounces the stringency of the provisions in the Bill, I hope he will take note of this important difference. Then in section 26F (*now* 24) it is provided that if the municipal authorities fail to show cause, and if they make default in carrying out the order, the Local Government may appoint some

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person to carry it out at the cost of the Corporation, and may authorise him to increase the rates for that purpose, but not in excess of the legal maximum, and can empower him to raise a loan. The Hon'ble Member stated that under the English Public Health Act there was no power to increase the rates or to raise a loan. The Hon'ble Member has been misinformed. In both these matters we have followed the provisions of the section of the English Public Health Act. If he turns to section 300, taken in conjunction with sections 301 and 302, he will see that both these powers are provided there, with one difference. In the English Public Health Act there is no limit to the rate which may be imposed. In the English statute there is no maximum fixed for the local rate which may be imposed. Under the Bill we expressly provide that the rates may not be raised above the ordinary legal maximum. That is another point in which the provisions of the Bill are less stringent than the provisions of the English Public Health Act. Lastly, Sir, we propose that an appeal shall lie to the Government of India against the orders of the Local Government, but we provide that action shall not be suspended in the meantime. That provision has been expressly approved by the Government of India, and, as I have already pointed out, there is no provision in the English statute for any appeal whatever. I consider, Sir, that these provisions, to which the greatest amount of thought has been devoted, are as simple and effective as it is possible to make them; and I hope, when they are enacted, that the charge which the Hon'ble Member has brought against the Government that it has slept over its duty in the past will no longer have any justification.

The Hon'ble Member made it a complaint against these provisions that the Government power of control extends to every part of the work of the Municipality, great or small, important or unimportant, and he said that the English law on the subject applied only to defaults in connexion with public health. He further said that in Bombay the corresponding powers are limited to duties specified in certain sections of the Bombay Act, and he said that the provisions of the Bill go beyond those which are enumerated in section 518 of the Bombay Act. Now, Sir, as regards the Bombay Act, the latter of these statements is literally correct. Section 518 deals with control and enumerates only certain cases in which there is power of intervention. But I would ask the Hon'ble Members to refer to those sections. The first section which is enumerated in section 518 of the Bombay Act is section 61, and

section 61 includes the whole of the obligatory duties of the Corporation. Every obligatory duty from first to last, whether connected with the public health or not, every one of those duties is brought *en bloc* under the operation of the Bombay sections relating to control. I do not think, therefore, that the Bombay precedent can help the Hon'ble Member very much. Then, Sir, as regards the English precedent, it is quite true that the Public Health Act confers on the Local Government Board only powers which relate to the public health; and the reason for that is obvious. The statute in question is not a general Municipal Act; it is a Public Health Act. Obviously its provisions and the powers under it can only extend to the purview of the statute itself. There is no single comprehensive municipal law in England such as the Bill we are now discussing. As a matter of fact, the provisions of the English Public Health Act have been extended by other statutes to other matters also. Not very many, but a few. Thus, by Statute 41 & 42 Vict., cap. 77, the provisions of the control sections of the Public Health Act have been extended to all matters connected with highways. By the Statute 56 & 57 Vict., cap. 73, they have been extended to highways in rural areas. And if the Hon'ble Member will refer to section 106 of the Public Health Act itself, he will see that the statute itself empowers the Local Government Board, through the police, to intervene summarily in respect of nuisances. Now, even if it be the case—and I admit it is so—that the duties connected with the public health are more important than all others, let us consider how much of the Bill would be left if we confined the operation of these control sections to matters connected with the public health. I have taken the trouble to draw up a list of the chapters which relate to public health in the Bill. These chapters are those which deal with water-supply, conservancy, drainage (including privies and latrines), hospitals and the treatment of disease, slaughter-houses, markets perhaps, buildings, congested areas, bustees, and the sale of food and drugs. To these I would add roads, because, as I have shown, the provisions of the Public Health Act in England have been extended to highways also. The only material functions which remain are those which relate to the taking of a census, to vital statistics, to lighting, to the naming of streets, and the numbering of houses. There may be possibly a few minor matters besides these, but I think that, of all the matters which do not come under the definition of matters relating to the public health, it will be found that these four matters are the chief, if not the only ones. I would like to read to the Council some remarks

[*Mr. Baker.*]

which Sir Henry Harrison made on this very subject in 1888. It was then proposed that the scope of the section relating to control should be limited to matters connected with the public health. Sir Henry Harrison challenged that principle, and he made remarks to the following effect:—

'It is not possible to deny that the maintaining of a system of registration of births and deaths for instance, or the naming of streets and the numbering of houses, are duties of the Municipality. Then, if it is the duty of the Municipality to do these things, ought they to be omitted from the section of the Bill over the operation of which a power of control is given to the Government? I admit that for all practical purposes it will, perhaps, be sufficient if the power of control is confined to matters affecting the public health, because it is essentially in such matters that there will be a probability of difference of opinion. But as a question of principle, why should the other clauses of the section be excluded? The probability is that there will be no likelihood of default in such matters. But suppose the Commissioners were to commit default in respect of such matters? Suppose the Commissioners discontinued the maintenance of a system of registration of births and deaths? There are statistics of births and deaths, extending over a series of years, of extreme value, to which constant reference is needed. Would it not then be necessary that the Government should have power to say to the Commissioners, you shall not discontinue those registers? Take another case. Take the naming of streets and the numbering of houses. Conceive the total confusion which would result from total neglect of this duty. Consider the total prostration of the Postal Department and of all inter-communication in Calcutta. Is there one single duty of the Commissioners regarding the performance of which it would be more incumbent on the Government to interfere than that—supposing it neglected? As a question of principle, I cannot see why we should take away the control of the Government over duties of this kind which, supposing they are not performed, will lead to disastrous results, simply because we think there will be no necessity for such control. The chances are a hundred to one that the Commissioners would not commit default in such matters; if so, no harm would be done, and the section would remain a dead letter. But suppose the Commissioners did commit general default, then there is no single matter amongst the duties of the Corporation, control over which would more meet with the approval of the entire population, than some of the matters which I have instanced.'

"That is what Sir Henry Harrison said in 1888. He gave two instances of matters not connected with the public health in which the power of interference by Government was manifestly desirable. I will add to these two instances more. Next year we shall be taking a census of the whole Indian Empire, probably of the whole British Empire. It is the duty of the Corporation to carry out the census of Calcutta when required. Let us suppose that the Commissioners, either from motives of economy or for any other reason, were to refuse to do so. Is it possible that Government should be compelled to tolerate the

scandal of a general census being taken and the capital of the Indian Empire being omitted from that census? Again, let us take the case of lighting the public streets. Lighting is a matter which affects the public safety. Suppose, in consequence of some quarrel with the Gas Company or otherwise, the Commissioners were to decide to discontinue the lighting of the streets of Calcutta with gas. Suppose that they decided to go back to the old system of oil lamps in Chowringhee and Old Court House Street. Can any one say that Government ought not to be permitted to interfere in such a matter as that? I will read one more extract, and one only, from Sir Henry Harrison's most interesting speech on this subject. He said:—

'And now that the law is being amended, I am bound to say that in my opinion the Council will do wrong unless it lays down most distinctly that the authority in all such matters rests with the Government. There is a great deal of difference between the Government interfering in matters concerning the duties of a Municipality and in matters affecting private rights, in which case the decision of a perfectly independent tribunal is necessary. There is a wide difference between such rights and rights and duties which are really part of the work of Government. The Municipality is a body vested with some of the authority of the Government of the country, and it should be properly regarded as a body which is subordinate to the Government of the country, and so it is regarded in every country in the world. In Paris, in Berlin, in London, the Government of the country is vested with the supreme authority and the supreme responsibility of disposing of public duties but, as it cannot attend to everything itself, it has its subordinate officers, and, where it is possible, local bodies are constituted for local purposes. But who in the long run is responsible to the individuals of each community against gross abuse of authority, but the Government of the country? Therefore, I submit, that as a matter of Government we must have a hierarchy of institutions, and subordinate authorities must be placed under superior authority. The Government ought to make up its mind with the utmost care, prudence, discretion and forbearance; but, when the Government has made up its mind that something is wrong, it is erroneous in principle to say that it should not have power then and there to act, but that authority should be given to some other tribunal to judge between it and the subordinate authority.'

"It seems to me, Sir, that Sir Henry Harrison's arguments are unanswerable. The ultimate responsibility for every branch of the municipal administration rests with Government. It is impossible for Government to divest itself of the ultimate responsibility in any single particular, and Government must therefore retain the power to interfere in every single particular. There is one branch of the municipal administration in which this principle has been fully accepted from the first without objection. I refer to matters connected with

the municipal accounts. In connexion with the accounts, the Government appoints independent outside auditors who are in no way under the control of the Corporation. The auditors go through the accounts, and, if they detect any irregularity or find anything wrong, they point out these defects at once to the Corporation, and it is the duty of the Corporation to put them right without hesitation or demur. So far as my acquaintance with the Corporation goes, they have never objected to that principle. Now, Sir, if that principle is sound in the case of what is after all a subordinate though important branch of the municipal administration, why should it be contested in such important matters as water-supply, drainage, lighting of streets, or the registration of vital statistics? I readily admit that Government should not lightly exercise its powers of interference, and I can confidently point to the experience of the past to show that it will not do so in the future. But it must have the power to interfere in all cases of need, and, when it does, the Corporation must be as fully bound to obey the orders of Government without hesitation or demur, as they are in the case of orders passed by the auditors of accounts.

"Then, Sir, the Hon'ble Member has said that Government possesses strong powers of control from within the Corporation, and he considers, therefore, that the time has come when we should abandon our powers of control from without."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I said 'relax,' not 'abandon'."

The Hon'ble MR. BAKER:—"But the reasons why Government have always possessed and must continue to possess powers of control from within are special to Calcutta, or rather special to this country. By the power of control from within I take it that the Hon'ble Member means primarily the two powers which Government possesses; the power of appointing the Chairman, and the power of nominating certain of the Commissioners. Those are the principal powers of control which Government possesses from within. Now, Sir, what are the reasons why Government has always reserved those powers in the past, and must continue to retain them now? As regards the power of appointing a certain proportion of the Commissioners, the reason is that Government is bound to provide for the due representation of minorities. English towns contain a comparatively homogeneous population, and the principle of election in English towns gives fairly representative results. We

know that in Calcutta, if we left everything to the chances of election, the whole preponderance of power would fall into the hands of one class. Therefore, Government must retain the power to appoint a certain number of the Commissioners in order to provide for the due representation of all interests. Then, as regards the power of appointing the Chairman. Government is bound to retain that power in order that the administration of the Municipality may be carried on upon European and progressive lines. If the essentially British character of the Municipality is to be maintained, it is imperative that the Chairman should be an Englishman, and an officer able to devote his whole time to the duties of his office. He must be a permanent salaried official, and, in selecting an official for the post, Government must be in a far better position to judge as to who should be appointed than the Corporation itself."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I did not object to those two powers; I objected to additional powers."

The Hon'ble MR. BAKER:—"The Hon'ble Member objected to Government possessing power of control from within as well as power of control from without. I have shown to-day that the powers the Government now propose to take are less stringent than those exercised by the Local Government Board in England. That is the justification for their adoption in the new Bill. I do not think I need say anything further now. I am willing to accept the first amendment moved by the Hon'ble Member, with a small modification, but the others, I fear, it is quite impossible for me to agree to."

The Hon'ble MR. APCAR said:—"There is a small amendment of mine, Sir, which I find is in exactly the same terms as that moved by my hon'ble friend. Item 96*, which stands in my name, is identical with item No. 92†, which has been moved by my hon'ble friend. I did not notice this until my hon'ble friend was speaking, when I did not care to intervene.

"I confess I cannot follow the Hon'ble Member in charge of the Bill when he says that under the Public Health Act there is power given to the officer superseding a defaulting Corporation to raise the rates. I find in section 299 this proviso:—

'Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, be invested with all

* Printed on p. 418, *post*. † Printed on p 388, *ante*.

the powers of such authority other than (save as hereinafter provided) the powers of levying rates.'

"So that he is precluded from raising the rates; and, with regard to section 302, it only gives power to recover as a debt any sum that may have been expended. Now, in the clause to which I have put my amendment, there is a provision that the remuneration to be paid to the officer and the cost of taking action under clauses (*i*) or (*ii*) of section 26E (*now* clause (*i*) of section 23) shall be defrayed out of the municipal funds, and—

The Hon'ble MR. BAKER:—"I beg the Hon'ble Member's pardon. I find I made a misquotation; the clause in the English Public Health Act which I quoted was No. 300."

The Hon'ble MR. APCAR:—"I trust Your Honour will pardon me. I have been rather taken by surprise. With your permission I will read the section:—

'300. Any sum specified in an order of the Local Government Board for payment of the expenses of performing the duty of a defaulting local authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such authority, and to be a debt due from such authority, and payable out of any moneys in the hands of such authority or of their officers, or out of any rate applicable to the payment of any expenses properly incurred by such authority, which rate is in this Part of this Act referred to as "the local rate."

"If the defaulting authority refuses to pay any such sum, with costs, as aforesaid, for a period of fourteen days after demand, the Local Government Board may, by order, empower any person to levy, by and out of the local rate, such sum (the amount to be specified in the order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt so due from the defaulting authority, and all expenses incurred in consequence of the non-payment of such debt.

'Any person or persons so empowered shall have the same powers of levying the local rate, and requiring all officers of the defaulting authority to pay over any moneys in their hands, as the defaulting authority would have in the case of expenses legally payable out of a local rate to be raised by such authority; and the said person or persons, after repaying all sums of money so due in respect of the order, shall pay the surplus, if any (the amount to be ascertained by the Local Government Board), to or to the order of the defaulting authority.'

"That is not authority to raise the rates to any sum at all; it is simply a provision to enable the officer to recover expenses that may have been incurred.

[*Mr. Apcar.*]

"I feel, Sir, that after the declaration of the Hon'ble Member in charge of the Bill any discussion becomes academic, because I must look forward to defeat on the amendments. But on principle my sympathies are entirely with my hon'ble friend who has moved the amendment, and it seems to me, Sir, that one point is being lost sight of now. It is that we have now reduced the number of elected Commissioners by 25, and that consequently the power will be entirely in the hands of those from whom there will be no fear of any kind of obstruction of the Government. The Bill has been based on the supposition that the numerical predominance of the Hindu Commissioners would be continued under the new law. It seems to me there ought to be some difference now made in regard to the stringent terms of this Bill. And on principle I should support my hon'ble friend, because in practice I have always contended that the Government can get anything done they choose through the Chairman, who is under their authority. My experience is, I repeat, that whenever the Chairman has chosen to appeal to the Corporation he has invariably had his way. Therefore, whatever may be decided here, I feel that the power always rests with the Government to carry such measures as they may desire.

"If there is going to be an acceptance of a small portion of the proposed amendment, I do not understand why there is a change made in the wording of my hon'ble friend's proposal, which was that the words 'on complaint made' should be inserted after the words 'The Local Government may.' The words suggested by my hon'ble friend form a specific expression containing a distinct idea, and they follow the provisions of the Public Health Act of England. But my hon'ble friend the Member in charge does not accept those words, and has varied them to 'on receipt of any information.' I do not understand the reason why he shies at the proposal made by my hon'ble friend, and substitutes the qualification I have just quoted. I did not hear any explanation of it. I suppose there must be some reason why the words used are not to be 'on complaint made,' but I do not understand why, and I confess I should have been better satisfied if there had been some reason given for the change.

"I do not desire to occupy the Council any further with regard to this question, but for myself I desire to say that I am very strongly in favour of powers of intervention on the part of Government; but I do think those powers ought to be limited to matters affecting the public health and that alone. Sir

Henry Harrison's opinion has been quoted. Well, Sir, I find that the opinions of Sir Henry Harrison are quoted when they happen to be in favour of some contention, but they are disavowed when they happen to be the other way. In the present Bill the broader principles of the Bombay Act are left out and the more stringent provisions are included. Sir Henry Harrison's opinion was relied upon when the Government desired to press the latter point, but, when his opinion was pressed against them in regard to the former, he was not supposed to be such a weighty authority. That is a peculiar system, and I confess I should have been better pleased if we had had some definite course laid down for us with regard to this Bill. My hon'ble friend the Member in charge of the Bill has relied on the opinion he has quoted to show that it is unwise for Government not to have powers of intervention if the registration of births is not obligatory. But I understand that under the Bill the matter will be in the hands of the executive, so that apparently this provision is required to order the Chairman to do his duty."

The Hon'ble MR. BAKER:—"The provision of funds."

The Hon'ble MR. APCAR:—"Well, that would be a matter which would come before the Corporation; but the Corporation has never failed, and they never are likely to do so, in this respect. Then, as regards the numbering of houses and the naming of streets, I did not understand that that related to funds. It seems to me to be a matter relating entirely to the executive. It seems impossible to conceive that there should be any kind of obstruction, and, therefore, I cannot say that the arguments which have been used in favour of those powers being given have much force. I have heard the remarks of the Hon'ble Member in charge of the Bill, but I cannot find that he has made out any ground for the more stringent terms, as it seems to me that the provisions of the Bill are more stringent than in England. As regards an appeal, considering that the Local Government Board is a department of the State over which a Cabinet Minister presides, I do not know—"

The Hon'ble MR. BAKER:—"I said there was no appeal."

The Hon'ble MR. APCAR:—"Exactly: I was just saying that, looking to the fact that the Local Government Board is a Board of such strength and power, it is quite sufficient that the determination of all questions should be left to its

decision without any appeal. It is a department of the Government under the presidency of a Cabinet Minister, and open to the criticism of the House of Commons. I think that there could be no more effective form of control. If we had such a department here, of such weight and authority, and with the same form of control, there would be no necessity for an appeal."

The Hon'ble MR. OLDHAM said:—"Sir, there is one argument used by my hon'ble friend who has just spoken with which I cannot agree, and that is that because of the new constitution of the Corporation with 25 nominated and 25 elected Commissioners, there should be less need than now for these provisions. I do not think I am indiscreet in expressing the view that the new Corporation will probably be a more unruly—I mean less docile—body than the existing Corporation in which the Hindus have predominated. And in Select Committee it was a strong reason with me for urging these provisions that the body would be so constituted. That is not merely a problematical and theoretical view. It is founded on reasons which I think are very apposite. These provisions which my hon'ble friend the Member in charge of the Bill has defended have been applied in England, certainly in Ireland in some prominent instances, so that they are not merely speculative provisions, but they have been found to be required in practice. The case I remember giving to the Select Committee was a very prominent case, in which I was almost personally interested. It occurred in February, 1890, when the Corporation of the city of Cork—claiming to be the second city in the kingdom of Ireland—was superseded. Its place was taken by two Commissioners sent down by Government, and the rates were levied by those gentlemen. That is a case in point, and it shows very clearly how essential it is to have these provisions, and it also shows that they have had to be applied even in the United Kingdom.

"While I am on my legs, I should like to remonstrate with my hon'ble friend Babu Surendranath Banerjee for the closing part of his speech. I wish to ask him if he thinks it right to use that gift of eloquence with which he is endowed in blackening—well, that is too strong a word—in detracting from—the characters of his co-religionists who may be members of the Corporation under these provisions of the Bill which is to be passed. My hon'ble friend knows now that these precise measures received the express approval of the Government of India. They are certain to be passed. The

Bill will certainly be put into operation, and with it these provisions, and the stigma which he has in anticipation placed upon his fellow members of the Hindu community who may be willing to serve under the Bill and to co-operate with Government, is, I think, much to be regretted, for the time is near and the obloquy has been already cast. I would ask my hon'ble friend whether it is a fair attitude for him to take up. We know what action he and his friends have taken, and we regret their loss. I do not think it is fair to prejudge the members of thenew Corporation. They will doubtless do their best. The chief text on which my hon'ble friend founded his remonstrance was that we are going back. We do not deny it. We profess to be going back to that starting place from which we have so widely diverged. I have often heard my hon'ble friend say that we are suffering from a reactionary tide. If that is the case, surely, Sir, that is the result of experience, and who dwells oftener on the lessons of experience than my hon'ble friend? If these restrictive measures have to be admitted, it is because they have been found by experience to be necessary. It is certain also that the most eminent authorities upon municipal administration in England are in favour of a strong measure of Government control. I will only quote one such authority. Sir Henry Fowler—who is admittedly one of the strongest advocates of municipal institutions—speaking on the addresses to Her Majesty the Queen at the opening of Parliament, insisted that they can only carry out successfully the duties they are called upon to discharge, when it is provided that they should be subject to the fullest measure of Government control."

The Hon'ble MR. BUCKLEY said:—"Sir, I take it that these four sections of the Bill which deal with control are the most important sections it contains. Indeed, given these four sections, and perhaps 25 or 30 others referring to the water-supply, drainage, and other practical matters of the kind, I think you have the gist of the whole matter of this Bill.

"The Hon'ble Member, Babu Surendranath Banerjee, in speaking of the powers of the Local Government Board under the Public Health Act, seemed to think that the Board only issued orders or gave instructions under that Act. It is true that, with reference to certain matters, they only have powers of control under sections 293 to 305 of the Act, but they issue, I find, a great many orders and instructions under innumerable other Acts under which they have authority. The Hon'ble Mr. Baker mentioned some of these, but I believe

they are very numerous, and the powers of the Board are very much greater than the Hon'ble Member appears to think. For instance, I find that, under the Contagious Diseases Act, the Board issued instructions about cowsheds; under the Margarine Act they issued orders about margarine manufactories; under the Local Government Act of 1878 they issued definite instructions about the authorities and duties of medical officers, and in other matters also they appear to take a very prominent part under many Acts of Parliament besides the Public Health Act.

"The Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Baker have both followed in some little detail the manner in which the power of control of the Government in this country has gradually increased. The hon'ble mover of the amendment referred to the fact that in the time of the Justices there was practically little or no control; in 1876 that was increased; in 1899 it is increased again. Sir, I think that, in this, history is only repeating itself. If you look through the history of the powers of control of the Local Government Board in England, you will find precisely the same thing. In early days, long before local self-government was thought of in this country, local self-government existed in England, mainly in the hands of the Boards of Guardians. They exercised their authority, with more or less efficiency, subject mainly to the control of the Secretary of State and the Privy Council. At that time such powers of control as existed were in the hands of those two authorities. The action of the local authorities was not always satisfactory. I find, some time in the forties, that a critic of the Boards of Guardians wrote as follows:—

'The utter failure of the system of local self-government for sanitary purposes is notorious to all who have taken any pains to enquire into the subject.'

"Between 1840 and 1845 there was a special Commission appointed, which in time resulted in the Act of 1848, which created the General Board of Health. This body exercised a certain amount of control, but still nothing like that which was conferred subsequently on the Local Government Board. Again, in the sixties, the matter attracted public attention, and I find this description of the state of affairs:—

'The Privy Council had aided aspiring localities with much information and advice, and, where there existed an earnest desire for improvement, successful results were obtained. But many other localities which were indifferent, apathetic and careless, were not

[*Mr. Buckley; Babu Surendranath Banerjee.*]

doing much to better conditions. It was not because ample power could not be easily obtained, but because the sense of duty was not sufficiently strong, and no superior authority existed which could compel the execution of the law. Local self-government pure and simple had proven a failure. * * * public opinion was ready for the insertion of the word *must* in this department of local government as it had been in another. The Act of 1866 was the result.'

"Sir, I take it that public opinion in India has arrived at precisely the same conclusion as it did in England in 1866. So far as there is any public opinion in this town, it says the word 'must' shall be brought into operation in regard to this Municipality. It is supported by eminent authorities: by His Excellency the Viceroy of India, the Secretary of State, the late Lieutenant-Governor, and yourself, Sir. It says that the word 'must' will have to come into this law. Now, Sir, going a little further (I am quoting here from Professor Maltbie's book, which was mentioned by the Hon'ble Mr. Baker), I find that when in 1871 the Local Government Board was established, and when in 1875 its powers were definitely increased and made similar to those which are now incorporated in this Bill, there was a remarkable and steady decrease in the death-rate in the towns affected. It is certainly remarkable to me to see, Sir, that Professor Maltbie—an American gentleman, and not an Englishman—should argue—and the figures support his opinion—that it was these powers of control which we have in this Bill which actually reduced the death-rate in many of the English towns. I would be prepared to admit that these powers constituted one of the causes, but to say that they were almost the the only cause is to me a very striking assertion. I will not trouble the Council with the figures, but in his book Professor Maltbie gives figures which show conclusively that immediately after these powers of control were brought into force the general death-rate decreased, and particularly the death-rate from those diseases which can be combated by attention to sanitary matters. Here in this town we have not decreased the death-rate. We have one which, certainly for the last ten years, has been steadily increasing. I believe I am right in saying that the increase is mainly in those diseases which are most easily preventible by sanitary measures."

The Hon'ble BABU SURENDRANATH BANERJEE:—"It is only in cases of fever there has been an increase; all other diseases show a decrease."

[*Mr. Buckley.*]

The Hon'ble MR. BUCKLEY:—"I do not say that these powers will immediately produce a reduction, but they will tend in that direction. With reference to the effect produced by these powers, I would ask you to permit me to read a further extract from Professor Maltbie's book:—

'The power of the Board over defaulting authorities is far-reaching and effective. It is necessary that a complaint be filed before an enquiry can be held, but, as any one can make complaint, and as it has been found that if an authority is negligent there will be at least *one* person willing and ready to so report, this provision has not restrained the activity of the Board. * * * * * Although stringent methods are provided in case the local authority refuses to act within the allotted time, it is seldom that it is necessary to go thus far. * * * It is not to be concluded, however, that the power possessed is not far-reaching in its influence. The few cases in which it is exercised are sufficient to convince all that it is not a mere form, but a genuine reality, and that in case of negligence it will be exercised.'

"I am glad, Sir, to learn that the Government of Bengal has been pleased to make the concession notified this morning, that the Government will not enforce these sections of control except on receipt of information, and I think the concession is one we can regard with satisfaction, and one which is most reasonable. But, although stringent measures are provided in case the local authority refuses to act within the allotted time, it is, as I have shown, seldom necessary to go so far. The power of these rules consists in their existence, not in their operation. The mere fact that Government does possess these powers will and does produce that activity in municipal bodies which is necessary for the public health. There must be present in the minds of many gentlemen here instances which show that the similar existence of power is often sufficient to produce great results, although those powers are seldom put into operation. What is it that maintains peace in this country? It is the British army, which I am happy to say has not been used within the boundaries of British India for many years. What is it that enables any little British cockle-shell to float in peace over the waters of the world? It is the existence of the British navy, which has not been in any general engagement since the battle of Trafalgar. It is the fact that the Government will have, when this Bill becomes law, the power to enforce these provisions which will bring about the desired result. But Sir, I must confess that I resent rather strongly the feeling which I see exists in the minds of the Hon'ble Members who are opposing this measure—the feeling that any action of the Local Government under these powers of control must be an unfriendly action. I deny that

altogether. I have some little—very little—acquaintance with the Local Government Board at home. I have been there more than once. I know some of the gentlemen who carry out the inspections which have to be made; I have seen several of their reports, and I have read records of their doings. I may say parenthetically that there are some eight or ten of them, and that they spend something like twenty days in a month making inspections all over the country. Now, the inspections which these gentlemen make are not unfriendly, except in very few cases, and, as a matter of fact, they are not resented by the authorities who are inspected; and I would venture to ask the two hon'ble gentlemen who are leading the opposition to-day whether they cannot recall here in Calcutta within the last few months an inspection—a very informal inspection—which was not altogether dissimilar to the inspections which will be made when these control sections are in force."

The Hon'ble MR. APCAR:—"I may explain that, so far as my opposition is concerned, my objections have no reference to control in connection with the public health. It is only in connection with control in matters beyond the definition of public health that I am opposed to the powers being given."

The Hon'ble BABU SURENDRANATH BANERJEE:—"That is my view also. I do not oppose the control sections so far as the public health is concerned."

The Hon'ble MR. BUCKLEY:—"The illustration I wish to give is in connection with a point raised by Mr. Apcar himself; it is in connection with the sewers of the town. I made an inspection similar to those which will be made under this Act. The Engineer to the Corporation went with me, and I submitted a report, which was similar to what will be made in the case of inspections under the Bill."

The Hon'ble MR. APCAR:—"That is what I want done very much. The subject mentioned by my hon'ble friend is distinctly one that affects the public health."

The Hon'ble MR. BUCKLEY:—"It seems to me that here in India we have, as they did in England, granted too free a hand to these youthful municipal lities. In England they have been 50, 60, 70 years before they reached this stage of control. Here we have given these children, these inexperienced

municipalities, much their own way. Is it astonishing if they have gone a little astray—if they resent the control their parent now seeks to put upon them? Is it astonishing if they sulk a little and say they wont 'play in our yard' any more? I do not blame the child one bit. A petulant child, to my mind, is often quite as attractive as one in its sunniest humour. The child who is now put out, and is sitting sulking in the other yard, will, as soon as he hears the hurdy-gurdy strike up in our yard once more, playing all the old tunes with a few new ones thrown in,—he will, I say, soon smile and give way, and will come back to his old friends, and will dance once again to the old tunes and to the new ones also as happily as before, to his own interest and to the good of those about him.

"There is only one point to which I now wish to refer, and that is what was mentioned by the Hon'ble Mr. Apcar. The Hon'ble Member in charge of the Bill pointed out that in the English law there is no appeal. I understood the Hon'ble Mr. Apcar to say that this is reasonable, because an order in England which was issued by the Local Government Board was issued by the Secretary of State. Does he mean to imply that an order issued by the Government of Bengal after a proper investigation by its officers, and after submission to yourself, Sir, the Lieutenant-Governor, will not have at least as much justice in it as an order issued by the Secretary of State at home? I feel sure the Hon'ble Member does not mean to imply that, and I feel quite sure also that the orders which may be issued under the control sections of this Act will be taken in the right spirit, as being orders which will tend to perfect the good results which we hope will flow from the operations of the Municipality."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"In the first place, Sir, I should like to ask my hon'ble friend who has just sat down whether the petulant children he has referred to in his speech are the gentlemen who have resigned their seats in the Corporation. If they are the petulant children referred to by my hon'ble friend, he will find, if he judges them by the criterion he has himself laid down, that they are not children, but that they are grown-up men who have acted on a difficult occasion with a full sense of the responsibilities of their situation. And what is more—I desire to impress this fact upon the attention of my hon'ble friend—in acting in the way they have done they have had behind them the full, the unanimous support of the

enlightened, the educated, and the advanced section of the community to which they belong. My hon'ble friend may treat them as children, but they have acted as responsible persons who were confronted with a grave crisis which they have met in a manner which has received the unstinted approval of their constituents.

"In a very different tone and manner has my hon'ble friend referred to other matters in regard to which I am sorry to have to say that I must also challenge his conclusions. My friend has remarked, with regard to the powers of control exercised by the Local Government Board for the various English municipalities, that these powers have been steadily increased. I should like to ask my hon'ble friend whether along with the increased powers of control assumed by the Government there has been any change in the constitution of the various municipalities. I, for my part, would not have objected to these powers of control if the constitution had been left untouched. But what I object to is this—you mulilate the constitution; you make the constitution an official constitution, and at the same time you greatly extend the powers of control which you already possess, and which, as a matter of fact, you have never exercised. I think the position taken up by my hon'ble friend is a strangely illogical position.

"My hon'ble friend has referred to the increase in the mortality, and he seems to be of opinion that this increase of mortality in Calcutta is due to the negligence of the Municipality and partly to the negligence of the Government in not enforcing the provisions of the municipal law. Here, again, I am sorry I cannot agree with my hon'ble friend. If my hon'ble friend will read the Resolutions of the Government upon the Administration Reports of the Corporation, and especially that particular Resolution of the Government bearing the signature of Mr. Risley in connection with a communication addressed to the Government by the Chamber of Commerce, he will find that the Government completely exonerates the Corporation from being in any way responsible for the increase in the rate of mortality. The Chamber of Commerce complained of the increase in the rate of mortality; they drew special attention to the increase in the rate of mortality in regard to typhoid and enteric fevers; and the Government pointed out that, though there had been an increase in the rate of mortality due to fever, it was due to general causes prevalent over the whole Province. It was part of a

universal increase not confined to the City of Calcutta. And, what is more, the Government went out of its way to say that probably the sanitary works of the Corporation served as a protection against a further rise in the mortality.

"There was a remark made by the Hon'ble Mr. Buckley, and I must say that I am surprised that a remark of that kind should have been made by a responsible administrator in the position of my hon'ble friend. What he said in substance was this: no matter whether you enforce the sections relating to control or not; if you have the sections embodied in the law, that is all that is necessary; they will exercise a moral influence over the Municipality. I understand the whole of our complaint at the present moment to be that, these provisions being embodied in the law, they were never enforced—they remained a dead letter, and they failed to exercise even the semblance of anything like moral pressure upon the proceedings of the Corporation; and, with these considerations before him, I am surprised that my friend should have urged a proposition of this kind before this Council.

"I must reciprocate the kindly and sympathetic spirit in which my hon'ble friend Mr. Oldham has addressed to me certain remarks in connection with a certain course of action which my friends and myself have thought fit to take on a recent occasion; but I think my friend is labouring under a misapprehension. I have not passed by anticipation an adverse judgment upon those who, in March or April next, may think fit to be associated with the municipal administration of Calcutta. Sir, here I am a member of Your Honour's Council, bound by my duties to give faithful, loyal and adequate expression to the sentiments of the public so far as those sentiments can be ascertained by me. When I said that no self-respecting member of the Hindu community will consent to share in the municipal administration of Calcutta that is about to be inaugurated, I not only gave expression to my own opinion, but I expressed the universal feeling of the Hindu community of Calcutta. My hon'ble friends in this Council have no conception of the depth and intensity of the feeling which this Bill has awakened. They do not know the Indian community. It may be their fault or it may be our fault, but there is the fact that they are not acquainted with the deep under-currents of feeling and opinion which at the present moment are stirring the minds of the native community; and the one thought that is uppermost in the community is a sense of the gravest disappointment that the Government of this country should have

felt it necessary to pass into law a Bill of this nature; and it is in consequence of that disappointment that we have taken the action to which my friend has referred. I will not, Sir, dilate further upon that subject. It is a controversial matter, and no useful purpose is to be served by referring to it further in this Council.

"I desire, however, to correct one or two mistakes which the Hon'ble Member in charge of the Bill has made. In the attempt to correct my mistakes, may I be permitted to remind him that he has fallen into one or two mistakes of his own? The Hon'ble Member, I think, has given us to understand that under the English Public Health Act the Local Government is permitted to contract loans on behalf of the corporate bodies, and further to raise the rates. I do not read the sections of the English Public Health Act at all in that way, and I think, after I have stated my case, Members of this Council will come to the conclusion that the English Public Health Act does not confer the power of raising the rates upon the Local Government Board. I will give you the words of section 302, which is as follows:—

'302. Any principal money or interest for the time being due in respect of any loan under this Act made for payment of the expenses incurred or to be incurred in the performance of the duty of a defaulting local authority shall be taken to be a debt due from such authority, and, in addition to any other remedies, may be recovered in the manner in which a debt due from a defaulting authority may be recovered in pursuance of the provisions of this Part of this Act. The surplus (if any) of any such loan, after payment of the expenses aforesaid, shall, on the amount thereof being certified by the Local Government Board, be paid to or to the order of the defaulting authority.

'"Expenses," for the purposes of the provisions of this Part of this Act relating to defaulting local authorities, shall include all sums payable under those provisions by or by the order of the Local Government Board or the person appointed by that Board.'

"My friend has asked me to read this in connection with section 209. Section 209 is as follows:—

'In the district of every urban authority whose expenses under this Act are directed to be defrayed out of the district fund and general district rate, there shall be continued or established a fund called the District Fund. A separate account, called "the District Fund account," of all moneys carried under this Act to the account of that fund shall be kept by the treasurer of the urban authority, and such moneys shall be applied by the urban authority in defraying such of the expenses chargeable thereon under this Act as they may think proper.'

"Sir, if the expenses are not covered by the debt, the rates will have to be raised. I think that is how the Hon'ble Member in charge of the Bill reads the section. But who raises the rates? Not the Local Government Board. The rates have to be raised by the local body itself."

The Hon'ble MR. BAKER:—"Certainly not. If you look at section 300 of the Public Health Act, you will find it is the person appointed by the Local Government Board. I can assure the Hon'ble Member that what I have said is perfectly correct."

The Hon'ble BABU SURENDRANATH BANERJEE:—"You have not got there the power of raising. This is what section 300 says:—

'If the defaulting authority refuses to pay any such sum, with costs as aforesaid, for a period of fourteen days after demand, the Local Government Board may, by order, empower any person to levy by and out of the local rate such sum, etc.'

"That does not mean to raise the rates. 'Levy' means to collect the rates."

The Hon'ble MR. BAKER:—"'Levy' does not mean only to collect. It also means to raise."

The Hon'ble MR. HANDLEY:—"'Levy' certainly means 'to raise.' It is derived from the French *lever*, to raise."

The Hon'ble BABU SURENDRANATH BANERJEE:—"These English statutes are so carefully worded that, if the object was to 'raise' or 'increase' the rates, the word 'increase' would appear. There is not the slightest doubt in my mind that if the object was to give the Local Government Board power to increase, the word 'increase' would have been there. 'Levy' means 'to collect,' and I think I have made out my case that power is not given to raise the rates. Will the Hon'ble Member in charge of the Bill consent to the word 'levy' being substituted in the Bill for the word 'raise'?

The Hon'ble MR. BAKER:—"No. The whole of this section is worded differently. We have expressly provided that the rates may not be raised above the legal maximum. I can assure the Hon'ble Member that what I said was entirely correct. The meaning of the English statute is that the person who is appointed by the Local Government Board may levy a local rate for the purpose of carrying out the work which is in default. That local rate is entirely over and above the ordinary rates levied by the local authority."

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE:—"Would you object to drop the words 'or increase'?"

The Hon'ble MR. BAKER:—"I object altogether to any change in the section."

The Hon'ble BABU SURENDRANATH BANERJEE:—"Then I am powerless. Then, Sir, section 26D (*now* 22) of the Bill follows the lines of section 293 of the Public Health Act. I venture again very respectfully, Sir, to point out that the section in the Bill goes much further. I am sorry to have to take up the time of the Council, but it is necessary to show that all the logic and reason is on our side, and that all the weight of authority and power of votes is on the other side. There is a very considerable difference between section 293 of the Public Health Act and section 26D (*now* 22) of the Bill. Section 293 is as follows:—

'The Local Government Board may from time to time cause to be made such enquiries as are directed by this Act, and such enquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval or consent is required by this Act.'

"Section 26D (*now* 22) of the Bill is as follows:—

'26D (*now* 22). (*1*) The Local Government may depute any officer or officers to make an inspection or examination of any department, office, service, work or thing under the control of any municipal authority, and to report to it the result of such inspection or examination.

'(*2*) Any officer so deputed may, for the purpose of making such inspection or examination, inspect the condition of any part of Calcutta, and may require the Chairman—

(*a*) to produce any record, correspondence, plan or other document which is in his possession or under his control as Chairman, or which is recorded or filed in his office or in the office of any municipal officer or servant,

(*b*) to furnish any return, plan, estimate, statement, account or statistics, or

(*c*) to furnish a report by himself, or to obtain a report from any head of a department subordinate to him and furnish the same with his own remarks thereon.

'(*3*) Every requisition made under sub-section (*2*) shall be complied with by the Chairman without unreasonable delay.'

"I do not think that the Hon'ble Member in charge of the Bill can say that the one is based on the other. The section in the Bill goes very much beyond the section in the Public Health Act.

[*Babu Surendranath Banerjee.*]

"I have to make some remarks as to section 26E (*now* 23). The Hon'ble Member in charge of the Bill was pleased to say that section 26E (*now* 23) is based upon section 299 of the Public Health Act. I will read the section and point out that the provisions of the Bill are much more comprehensive. Section 299 is as follows:—

'Where complaint is made to the Local Government Board that a local authority has made default in providing their district with sufficient sewers or in the maintenance of existing sewers or in providing their district with a supply of water, in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or that a local authority has made default in enforcing any provisions of this Act which it is their duty to enforce, the Local Government Board, if satisfied, after due enquiry, that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of their duty in the matter of such complaint.

'If such duty is not performed by the time limited in the order, such order may be enforced by writ of mandamus, or the Local Government Board may appoint some person to perform such duty, and shall, by order, direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the authority in default; and any order made for the payment of such expenses and costs may be removed into the Court of Queen's Bench and be enforced in the same manner as if the same were an order of such Court.

'Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such authority other than (save as hereinafter provided) the powers of levying rates; and the Local Government Board may from time to time by order change any person so appointed.'

"Therefore, I think I am right in maintaining this view: that the provisions of the Bill, notwithstanding the elaborate and the very able explanation of the Hon'ble Member in charge of the Bill, go very much beyond the provisions of the Public Health Act. My hon'ble friend may shake his head, but here are the facts. Here are the sections. It is a matter in regard to which a difference of opinion is impossible; and, having compared the sections of the Public Health Act with the sections of the Bill, I am constrained to come to the conclusion that the provisions of the Bill are far more drastic than the provisions of the Public Health Act. The Public Health Act deals only with matters relating to public health; the provisions of the Bill deal with all matters relating to municipal administration.

[*Babu Surendranath Banerjee; Mr. Baker.*]

"I do not know that I should be justified in taking up more of your time. We have had an exhaustive discussion upon this most important subject. The name of Sir Henry Harrison has been taken freely in connection with this and other matters relating to this Bill, and he has been cited as an authority. As I have said already, he stands in the unique position of being one who is cited as an authority both by the friends as well as by the opponents of the Bill. I think, Sir, the opponents of the Bill are really in sympathy with his utterances. If Sir Henry Harrison were living now, I know what his feelings and opinions would have been in regard to this Bill. I never knew a stauncher friend of local self-government, and I am perfectly certain that his eloquent words would have been heard the loudest amid the storm and stress of this discussion. If Sir Henry Harrison's authority could really be adduced in support of these stringent provisions of the Bill, does it not stand to reason that when he legislated in 1888 he would have embodied similar provisions in the Act of 1888? He did nothing of the kind, and, therefore, I think it is hardly fair to the honoured memory of Sir Henry Harrison that his name should be quoted in support of stringent provisions which he himself would have been the first to repudiate.

"Then, as to 'information' upon which action is to be taken, is it to be public information?"

The Hon'ble MR. BAKER:—"Certainly not. It is worded in this way, 'on receipt of any information'."

The Hon'ble BABU SURENDRANATH BANERJEE:—"Suppose the Chairman and the Corporation have a fight about certain matters, and the Chairman writes, say, a demi-official letter to the Secretary to the Government, would that be 'information' according to this Bill"?

The Hon'ble MR. BAKER:—"Yes, any information of any kind."

The Hon'ble BABU SURENDRANATH BANERJEE:—"In that case I protest. It ought to be public information. I do not think the Government ought to act upon information of a private character."

The Hon'ble MR. BAKER:—"The information is only to enable the Government to institute an enquiry. It may obviously be information of any kind, coming from any source, even an anonymous petition."

[*The President; Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble THE PRESIDENT:—"The better plan will be to put to the Council the alternative motions: the one which stands in the name of the Hon'ble Babu Surendranath Banerjee and the other one, that of the Hon'ble Mr. Baker, proposed as a substitute."

The Hon'ble BABU SURENDRANATH BANERJEE'S amendment No. 83* being put, the Council divided as follows:—

Ayes 5.	*Noes 12.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apcar.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble MR. BAKER then moved that the following words be inserted after the words "the Local Government may," in line 1 of section 26D (*now* 22), namely:—

"on receipt of any information."

The amendment was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE'S amendments Nos. 84, 85, 86, 87, 88, 92, 93 and 94† being severally put, the Council divided in each case as in the case of amendment No. 83.

So the amendments were lost.

* Printed on p. 382, *ante*.

† Printed on pp. 382 and 383, *ante*.

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE'S amendment No. 92,* relating to section 26F (*now* 24), clause (*c*), having been lost, the Hon'ble MR. APCAR, by leave of the Council, withdrew his amendment (No. 96) that in section 26F (now *24*), clause (*c*), the words from "and, if necessary," to the end of the clause be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 26E (*now* 23), line 14, for "the municipal authorities, or any of them," be substituted "such municipal authority".

He said:—"It requires considerable courage to move any amendment in these control sections after the statement made by the Hon'ble Member in charge of the Bill that they have been very carefully considered by the Government of Bengal and have received the approval of the Government of India. My amendments, however, do not touch any questions of fundamental principle. They deal with matters of detail, and I am hoping that they may not receive the same amount of crystallised opposition. Section 26E (*now* 23), sub-section (*1*), clause (*a*), provides that 'when any of the duties imposed on any municipal authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner,' the Local Government may direct the municipal authorities, or *any of them*, to do certain things.

"My amendment is that for the words 'the municipal authorities or any of them' be substituted 'such municipal authority,' so that the section as amended will read 'the Local Government may by written order direct such municipal authority' to do those things. It seems to me that this is the logical consequence of the fundamental principles with which we started: that there are to be three co-ordinate authorities, each of which is to have certain powers which it is to exercise without control and interference by the others. Take a concrete case. Suppose the General Committee have failed to do something which they are by the provisions of this Act required to do. Under section 26E (*now* 23), as it stands at present, it would be open to the Local Government to direct, not necessarily the General Committee, but the Corporation, to do the necessary acts without even giving the General Committee an opportunity of explaining or defending their action. This in fact appears to be inconsistent with what

* Printed on p. 383, *ante*.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

follows. It seems that the Local Government may direct the municipal authorities to do one of three things—either to make arrangements to the satisfaction of the Local Government for the proper performance of the duties, or to make financial provision to the satisfaction of Government for the performance of any such duty, or to show cause why arrangements should not be made. Suppose the Local Government, instead of asking the General Committee, asks the Chairman to show cause why such an arrangement should not be made? The Chairman could very well say 'It is no part of my duty. I am not acquainted with the details.' The General Committee should in such a case be asked, in the first instance, to show cause or to make the necessary provisions. Then section 26F (*now* 24) provides that, if neither cause is shown nor the necessary directions carried out, the authority in default may be superseded; but the supersession comes only if, after warning, no satisfactory explanation is given or the necessary precautions are not taken. Therefore, it seems to me that section 26E (*now* 23) as it stands makes it impossible for any municipal authority in default to be superseded without being given an opportunity of showing cause or of taking the necessary measures. It is a section which ought not to be allowed to stand. I venture to think that it would be logical to say that in the first instance notice is to be served not upon 'any one of the municipal authorities' but upon 'the municipal authority in default.'"

The Hon'ble Mr. Baker said:—"I am sorry I cannot accept this amendment. Many of the duties that have to be performed have to be carried out by the conjoint action of all three municipal authorities or by two of them. Therefore, the order which is to be issued by the Local Government must be directed to all the municipal authorities who may be concerned in carrying it out. For instance, if an order related to the improvement of an unhealthy area, all three municipal authorities would be concerned in giving effect to that order. The Corporation would have to provide the funds, the General Committee would have to prepare the plans, and the Chairman would have to carry out the work. It is impossible to hamper the Government by restricting the order to the individual authority which was originally in default. No doubt the Hon'ble Member will say it is very hard that a municipal authority should be made to suffer because of the default of one of the other municipal authorities. I can only say that it is a law of nature unfortunately that the misdeeds of one

person affect other people besides himself. The fact is that the idea which underlies this amendment is that the ruling principle of the control sections is the idea of punishment. That is entirely incorrect. The ruling principle is not punishment; it is efficiency. The object of Government is to get the work carried out, and for that reason it is necessary that Government should have power to direct its order, not merely to the particular municipal authority who might happen to be in default, but to all others whose co-operation might be necessary for the carrying out of the work."

The motion was put and lost.

The Hon'ble DR ASUTOSH MUKHOPADHYAYA also moved (amendment No. 90) that in section 26E (*now* 23), after line 15, the word "either" be added; that clauses (*i*) and (*ii*) be amalgamated; and that clause (*iii*) be numbered (*ii*).

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved (amendment No. 97) that in section 66F (*now* 24), line 3, the words or "clause (*ii*)" be omitted, and that in line 4 for the words "and cause has not" the words "nor has cause" be substituted.

He said:—"These amendments really relate to a matter of drafting, I have no desire to conceal the fact that I have felt some difficulty in making out the meaning of the section as it stands, but I believe I have succeeded in attaching a meaning to it. Clauses (*i*), (*ii*) and (*iii*) are not, as I understand them, co-ordinate. Clause (*iii*) provides that cause is to be shown to the satisfaction of the Local Government if neither adequate arrangement nor financial provision is made for the proper performance of a function in respect of which any municipal authority is directed by the Government to take action. In other words, the section means that the Local Government may require a municipal authority in default to do one of two things, not one of three things. The Local Government may require that authority either to make arrangements or to make financial provision as the necessity of the case may require; or the Local Government may require such authority to show cause why action should not be taken; that is to say, as I understand it, it is not open to the municipal authority in default to decide whether the arrangement is to be made to the satisfaction of the Government, or whether merely financial provision is to be made and, as an alternative to either of these, to show satisfactory cause. Therefore, I think it would be better if clauses (*i*) and (*ii*) were amalgamated, and clause (*iii*) put

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; the President.*]

as an alternative to the whole. And this brings me to section 26F (*now* 21), sub-section (*1*), which is as follows:—

'If, within the period fixed by any order issued under section 26E (*now* 23), any action directed under clause (*i*) or clause (*ii*) of that section has not been duly taken, and cause has not been shown as aforesaid, the Local Government may,' &c.

"I suggest that the words 'or clause (*ii*)' be omitted, and for the words 'and cause has not' I would substitute 'nor has cause'; because, as I understand it, the showing of cause is an alternative to doing the things provided in clauses (*i*) and (*ii*). It is not required that cause is to be shown in addition to action taken under clauses (*i*) and (*ii*). I had considerable difficulty in making out the meaning of the section, but I believe the interpretation I have put on it is the correct one."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has quite correctly described the meaning of section 26E (*now* 23), and I am bound to say I feel the difficulty which he has described about the arrangement of clauses (*i*), (*ii*) and (*iii*). But it is a pure matter of drafting, as he will recognise, and the Secretary of the Council considered that this arrangement is preferable to the one which was suggested in the amendment. That is the only reason I can give for not assenting to this amendment. As regards the subsequent amendment, No. 97, that falls into two parts. The first is dependent or consequential on amendment 90. The second part—that the words 'nor has cause' should be taken instead of 'and cause has not'—I think is not correct. I think the words 'and cause has not' correctly express the meaning. Both alternatives have to be excluded, and if the words used were 'nor has cause,' that would not be strictly the case. I think, if the Hon'ble Member will, as regards amendment 90, refer to the Secretary, he will see what the reasons are for which the Secretary considers that the drafting in the Bill is preferable. If you, Sir, have no objection, amendment 90 might stand over. I myself rather share the view of the hon'ble mover of the amendment, but, not being an expert draftsman, I am not in a position to press the point."

The Hon'ble THE PRESIDENT said:—"Let the mover consult the Secretary, and we will take up the amendment again to-morrow."

[*Babu Surendranath Banerjee; the President; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I want to point out in this connection that it would be as well to make the drafting clearer than what it is. We have, as members of the Corporation, experienced great difficulty in administering the present Act where alternatives of this kind have occurred. For instance, a notice is issued upon a party to excavate or fill up or de-water a tank. Now, who is to decide what course of action is to be taken? Section 315 of the present Act provides—

'When any well, tank or marshy ground, or any waste or stagnant water, whether within any private enclosure or not, appears to the Commissioners to be injurious to health or to be offensive to the neighbourhood, the Commissioners may require, by notice in writing, the owner of the same to cleanse or fill up such well, tank or marshy ground with suitable material, or to drain off or remove such stagnant water; and, if he shall refuse or neglect to comply with such requisition during one month from the service thereof, the Commissioners may enter into the said premises and do all necessary acts for all or any of the purposes aforesaid as they shall think fit;

and the expenses thereby incurred shall be paid by the owner, and until so paid the Commissioners may retain possession of the land or tank or the site of such tank and utilise the same for public purposes.'

"Who is to decide the point? Is the Corporation to decide, or the party on whom the notice is served? I think the matter ought to be made clearer. I think a matter of this kind, if left in doubt, would be attended with considerable administrative inconvenience."

The Hon'ble THE PRESIDENT:—"We will postpone the consideration of these two questions until to-morrow."

The further consideration of amendments Nos. 90 and 97 was accordingly postponed till the next meeting of the Council.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 26E (*now* 23), sub-section (*3*), after the word "petition" the words "unless the Government of India, upon receipt of the petition, so direct" be added.

He said:—"Sub-section (*3*) as it now stands reads as follows:—

"No action directed by any such order shall be suspended in consequence of the transmission of any such petition."

"This is in accordance with the fundamental principle that the mere preferring of an appeal to a higher tribunal is not necessarily to lead to stay of

proceedings; but it is an equally elementary principle recognised by the Courts, not only of this country, but also of England, that if an appeal is preferred, an application for stay may be made to the appellate authority, and if such authority is satisfied that there are good grounds for the appeal, it may stay proceedings. I think no practical inconvenience will be caused if my amendment is carried. In substance, it means that as soon as a petition of appeal is transmitted to the Government of India, application may be made to that Government for an order that proceedings may be stayed, and we may take it that unless the Government of India is satisfied that there are good grounds for the appeal, they will not direct such a stay."

The Hon'ble MR. BAKER:—"I am ready to accept the amendment."

The motion was then put and carried.

The Hon'ble MR. APCAR moved that in section 26F (*now* 24), sub-section (*1*), line 4, for the word "and" the word "or" be substituted.

He said:—"The preceding section, 26E (*now* 23), is with regard to the power to require a municipal authority to take action as in clauses (*i*) and (*ii*). Clause (*i*) empowers the Local Government to direct the municipal authorities to perform certain duties imposed on them, and clause (*ii*) empowers the Government to direct the said authorities to make financial provision for such performance. Then, as I read it, the alternative of those two clauses is to show cause, and therefore I have suggested that instead of the word 'and' we should have 'or,' because the first two clauses relate to action being taken, while the alternative is cause being shown. That is the reason why I have suggested this verbal amendment, in order that the matter might be better understood."

The Hon'ble MR. BAKER said:—"To use the word 'or' instead of 'and' would have exactly the opposite effect to what the Hon'ble Member intends. The intention is that both these alternatives must have failed before the Local Government can take action. The two alternatives are, first, that the action directed by clauses (*i*) and (*ii*) has not been taken, and, second, that cause has not been shown. The meaning is that the Local Government may only intervene and appoint some one to do the work if both alternatives have failed: if the Corporation have neither carried out the order nor shown cause to the contrary. Therefore, the correct word to use is 'and'. It joins

two alternatives together. If the word 'or' were used, the result would be that the Local Government could intervene even if the work had already been carried out, provided cause had not been shown, or it could intervene if cause had been shown and the work had not been carried out."

The Hon'ble MR. BOLTON said:—"I do not see that any alteration is needed in the section. 'And' is the proper word to use."

The amendment was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 26F (*now* 24), sub-section (*2*), after the words "municipal authority" the words "so superseded" be added.

He said:—"I need not detain the Council long over this amendment, as it is governed by the same principles as a previous one, upon which an adverse decision has been recorded. The sub-section, as it stands at present, reads:—

'The person appointed under sub-section (*1*) may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred on any municipal authority by or under this Act which are specified in this behalf in the order issued under sub-section (*1*).'

"I propose to make the sub-section read:—

'...may...exercise any of the powers conferred on any municipal authority so superseded...'

"I do not think there can be any answer to this, except perhaps the one suggested by the Hon'ble Member in charge of the Bill that one man ought to suffer for the misdeeds of another."

The Hon'ble MR. BAKER said:—"I cannot agree to this amendment. I did not suggest that one man ought to suffer for the misdeeds of another. I said it was unfortunately a law of nature that frequently one man had to suffer for the misdeeds of another, and this is one of the cases in point. The *rationale* of this amendment is the same as that of the Hon'ble Member's previous amendment. The idea is that there is some notion of punishment running through the whole of this section That is not the case at all. He thinks Government should only confer on its agent the powers of the particular municipal authority which was in default. That would be perfectly right and proper if the appointment of an agent to carry out the work were intended as an act of punishment; but it is not so. The sole object of Government in exercising these powers under these sections is to promote efficiency and to secure that the work which is in

default shall be carried out. For that reason, it may be necessary to give to the agent more extensive powers than those exercised by the particular authority in default."

The motion was then put and lost.

SECTION 26.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am going to suggest that the following amendments might be taken together, because they all refer to the Deputy Chairman."

No. 99 (brought forward by the Hon'ble BABU SURENDRANATH BANERJEE): that section 28B (*now* 26) be omitted;

No. 100 (brought forward by the Hon'ble BABU SURENDRANATH BANERJEE):—

(*1*) that before the words "Local Government" the words "Corporation with the approval of the" be inserted in line 1 of sub-section (*1*) of section 28B (*now* 26), and

(*2*) that before the words "Local Government" the words "Corporation with the approval of the" be inserted in line 3 of sub-section (*2*) of section 28B (*now* 26);

No. 101 (brought forward by the Hon'ble MR. APCAR): that section 28B (*now* 26) be omitted.

He said:—The object of these amendments is in the first instance to dispense with the necessity of providing for the appointment of a Deputy Chairman in the Bill. I do not consider it is necessary that we should specifically legislate in this behalf. But, Sir, if it should be the opinion of this Council that such a provision should be made, then I say that the appointment should rest with the Corporation. The Corporation should appoint a Deputy Chairman subject to its discretion and subject to the approval of the Local Government. My first contention is that it is not necessary to make any provision for this appointment in the Bill; and here I am fortified by the testimony of recent facts and the arguments which such testimony affords. At the present moment the Corporation does not possess under the law the power to appoint a Deputy Chairman. The present Act makes no provision for such an appointment. But, as a matter of fact, we have been appointing a Deputy Chairman from time to time

during the plague. We may call him Deputy Chairman or not; but we have been making appointments of Covenanted Civilians who have acted as Personal Assistants to the Chairman. Therefore, I say that, without a provision of this kind, we have been making appointments of Deputy Chairmen. During the time of the plague, when Mr. Bright was overburdened with work, he suggested that he should have a Personal Assistant, and we gave him one. Therefore, I say, there is absolutely no necessity for making a distinct and specific provision in the Bill for the appointment of a Deputy Chairman. But if the Council has made up its mind that there should be such a provision, then I would invite the Council to follow the Bombay Act, to which we are so largely indebted. Let me read to you section 55 of the Bombay Act:—

'(*1*) Subject to confirmation by the Governor in Council, the Corporation may at any time and from time to time appoint a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do.

(*2*) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.'

"And the salary is fixed entirely by the Corporation without reference to Government. Then section 58 of the Bombay Act provides:—

'A Deputy Municipal Commissioner shall receive such monthly salary, not exceeding Rs. 1,500 and not less than Rs. 1,200, as the Corporation shall from time to time determine.'

"I suggest that the provisions of the Bombay Act should be introduced and in fact I do not even go so far as the provisions of the Bombay law; bu I recommend, in the matter of fixing the salary, that the Corporation should fix it subject to the approval of the Local Government. In Bombay the salary is fixed by the Corporation, without reference to the Governor in Council; therefore, Sir, my amendment does not even go so far as the Bombay Act, and, under the circumstances, it ought to be accepted by the Council. There is a very strong reason why, in a matter of this kind, the Head of the Local Government should make the Corporation rather than the Municipal Secretary his adviser. I think it is a matter of the utmost importance that the Corporation should be permitted to say what it has got to say, and I will refer to a recent instance in illustration of my contention. Your Honour's Government was pleased to recommend the other day to the Corporation the propriety of appointing a Personal Assistant to the Chairman, in view

of the disorganised state of the Conservancy Department, and with a view to more satisfactory arrangements being made in connection with that Department. The matter came up before the General Committee. It was carefully considered, and we all came to the conclusion that a Personal Assistant for the supervision of the Conservancy Department was unnecessary. Mr. Bright agreed in that opinion. We felt that what was needed for the Conservancy Department was, not the addition of a supervising officer, but an addition to the menial staff: coolies, carts, bullocks, peons, and so forth. Suppose the Government and the Government alone had the power to make this appointment. The Corporation would not have been consulted, and an officer, upon a high salary, would have been appointed to perform a duty for which no one need have been appointed. Therefore, the intervention of the Corporation in a matter of this kind is likely to prevent mistakes which might otherwise be committed. I think it is a safeguard, and surely the Corporation, which is entrusted with such responsible functions, ought to be taken into confidence in the matter of the appointment of a high officer of the status of the Deputy Chairman."

The Hon'ble MR. APCAR said:—"My amendment is in identical terms with the first amendment of my hon'ble friend Babu Surendranath Banerjee, and I have no desire to take up the time of the Council in repeating what has been stated by him. The Corporation have now got the power of appointing a Deputy Chairman, and I think they ought to be allowed to judge whether a Deputy Chairman is necessary or not. It may be that Government will be appointing a Deputy Chairman when there is no need for him. The instance referred to by the Hon'ble Babu Surendranath Banerjee with regard to the appointment of a conservancy supervisor is in point. The conservancy arrangements depend on getting the proper number of drivers, bullocks, &c., and I do not see how the Deputy Chairman can help in that. So that it is seen at once that the Government are not always in the best position to judge whether a Deputy Chairman should be appointed or not."

The Hon'ble MR. APCAR also moved (amendment No. 102):—

(*1*) that in section 28B (*now* 26), sub-section (*1*), after the word "The" in line 1, the words "Corporation with the approval of the" be inserted;

[*Mr. Apcar; Mr. Baker.*]

(*2*) that in section 28B (*now* 26), sub-section (*1*) and sub-section (*2*), for the word "Deputy" the words "Personal Assistant to the" be substituted; and

(*3*) that in section 28B (*now* 26), sub-section (*2*) after the words fixed by," the words "the Corporation with the approval of" be inserted.

He said:—"It strikes me that a more appropriate term would be 'Personal Assistant to the Chairman.' With regard to the Deputy Chairman, if it had been that he was to be the personal adviser of the Chairman, with regard to engineering questions, &c., as against the spending department, and was to possess qualifications as an architect, I should have had very much less objection to the proposal."

The Hon'ble MR. BAKER said:—"The reason why Government considers it essential to have the power of appointing a Deputy Chairman is briefly that since 1888-89 there has been a very large increase of work in almost every branch of the administration, and it is every year becoming more and more difficult for the Chairman to attend to it properly.

"At the outset it should be pointed out that the Act of 1888 itself made a large addition to the area of Calcutta and to the work of the Chairman. By that Act the suburbs were incorporated in Calcutta, thus increasing the area by 13 square miles and a population of 178,000. It is obvious that this large addition to the Chairman's charge must have involved a great increase of work, and I only refrain from dwelling upon it because it was accompanied by the separation of the office of Commissioner of Police, hitherto held by the Chairman in addition to his own duties. The relief to him was nothing like so great as the addition to his work, because in practice the Calcutta police was administered by the Deputy Commissioner. But I will not lay any stress on the point, and will take for my starting point the first year after the present Act came into force.

"Comparing 1888-89 with 1898-99, therefore, we find that during these ten years the revenue of the Corporation has risen from 43 lakhs to 54¾, or by 27 per cent. The length of roads has risen from 184 miles to 201 miles, or by nearly 10 per cent., while the amount expended on their up-keep has risen from Rs. 1,72,000 to Rs. 2,70,000, or by 57 per cent. The filtered water-supply

has risen from 16 million gallons a day to 20½ millions, or by 28 per cent., and the unfiltered supply has been increased from 2¾ million gallons to 4¾ millions, or by 72 per cent. The number of streets supplied with filtered water has risen by 72 per cent., and of those supplied with unfiltered water by 63 per cent. The length of brick sewers has risen by 13 per cent., and that of pipe sewers by 7 per cent., while they are flushed and cleansed twice as often as before in the former case, and 2½ times as often in the latter. Meanwhile the quantity of refuse removed daily from the town has increased by no less than 70 per cent. The correspondence has increased from about 10,000 letters a year to more than 20,000, *i.e.*, it has just about doubled. The number of files submitted to the Chairman has risen from 4,039 to 8,483. Under the Act of 1876, building applications, a very fertile source of work and trouble, were practically unknown. These have developed enormously, there having been only 277 during 1888-89, whereas in 1898-99 there were no less than 4,199. Lastly, during these ten years there has been spent, on account of works charged to capital, no less than 167 lakhs of rupees. This vast sum has been devoted to the extension of the water-supply, both filtered and unfiltered; to the new sewage outfall; to large drainage works both in the town and suburbs; to the reclamation of bustees; and to the Harrison Road. It is manifest that this great outlay, sunk in works of permanent utility and improvement, must have left a huge legacy of work behind it. When a great scheme of drainage or water-works is carried out, the Chairman's work does not cease when the last contractor's accounts are made up and the final bills are paid.

"Add to all this the fact that year by year a higher standard of efficiency is demanded in every branch of the administration, and it will, I think, be admitted on all hands that the burden of supervision has grown enormously in the past, and is now beyond the power of one man to cope with.

"During the whole of this period no assistance has been given to the Chairman in the superior or personal staff. During the present year, when plague work was heavy, the Corporation sanctioned a Personal Assistant as a temporary measure. But this officer has no legal status, and can exercise none of the Chairman's powers; and can never render assistance in the form in which it is most required.

"It is for these reasons that Government is satisfied that it is no longer safe to leave the Chairman to grapple with his growing burden of work without

assistance. It is the Lieutenant-Governor's intention, as soon as the Bill comes into force, to appoint a Deputy Chairman at once for a period of two years. We hope that under the new constitution the Chairman will obtain some relief by no longer being compelled to do his work twice or three times over. If this should turn out to be the case to any considerable extent, it will be possible to dispense with the Deputy Chairman hereafter, and the section is so framed that this course will be open. But I must distinctly explain that this is a possibility, and not a probability: and I give no pledge whatever that will interfere with the discretion of Government to act as it thinks fit when the time comes.

"Amendments have been moved to the effect that if a Deputy Chairman is to be appointed, this should only be done at the instance of the Corporation, who should select the officer and fix his pay. It has also been proposed by Mr. Apcar to substitute a Personal Assistant for the Deputy Chairman. The only argument in favour of this course seems to be that in Bombay the matter rests with the Corporation. I cannot regard this as a sufficient ground. The Deputy Chairman is the Deputy of the Chairman. The justification for appointing him, if he is appointed, is that without his aid the Chairman will not be able to discharge the duties imposed on him by the Act—duties I would point out in which he is not subject to the control or interference of the Corporation. It seems clear and logical that the Deputy should be appointed by the same authority which appoints the Chairman himself, and that his pay should be fixed by the same authority which fixes the pay of the Chairman.

"The question is not one of principle, but purely one of expediency. Is it expedient to delegate this power to the Corporation, or should it be retained by Government? I hold that it is not. The decision of the question whether a Deputy is required or not turns on the quantity of work which devolves on the Chairman, and the nature and mass of the details with which he has to cope. I cannot admit that the Corporation is well qualified to decide these questions. Even under the present system, when all acts of the Chairman are subject to constant interference, and all proceedings of Committees require confirmation, they are not well informed as to the quantity and importance of the Chairman's work. We have been told that 95 per cent. of the work done by the General Committee is confirmed without discussion. In these circumstances, what degree of acquaintance with the burden of business is likely to be

possessed by the bulk of the Corporation? Under the new system, where the Corporation will be confined, and rightly, to the consideration of large issues, they will be still less able to appreciate the burden that devolves on the executive. On the other hand, the Government is only too familiar with applications for increase of establishment, and is thoroughly accustomed to weigh the evidence on which they are based. It is much more probable that Government will be able to judge correctly and impartially of the necessity for the appointment at any particular moment; and I therefore hold that it should rest with the Government and not with the Corporation."

The Hon'ble MR. APCAR, in reply, said:—"With regard to what the Hon'ble Member in charge of the Bill said, that the members of the Corporation do not know what work is—I do not know what the newly constituted Corporation may do. I certainly challenge that statement with regard to the Corporation as now constituted. Many of the European members of the Corporation also, I know, study the papers, and among them possibly there is a larger proportion who do not. I do not think, Sir, that the Corporation should have no voice in questions such as these. With regard to the work of the Chairman, I really cannot accept the statement that his work has increased. We have no extra Engineer, nor have we an extra Health Officer. Sir Henry Harrison said they were not required. It was never suggested that we should have an extra Engineer, except a subordinate officer who does local work with regard to the Engineering Department in the suburbs. In these circumstances, I do not think there has been any case made out why there should now be a change. If there is to be a Deputy Chairman, the Corporation can well be trusted to decide when one may be required. I do not think, in a matter such as this, the Government should legislate that this appointment should be made by them."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I have heard a great deal during the course of this discussion about the enormous quantity of work thrown upon the Chairman. I should like to point out, for the information of the Hon'ble Member in charge of the Bill, that when the amalgamation took place the Corporation offered Sir Henry Harrison the services of a Personal Assistant, but Sir Henry Harrison declined to accept such help. That Personal Assistant is now in charge of the Warrant Department, the Printing Department and the Loan Department. That Personal Assistant is a most worthy officer,

namely, Mr. Owen. Therefore, if Sir Henry Harrison, who had a larger quantity of work thrown upon him than had ever fallen to the lot of any other Chairman,—because the whole of the new arrangements subsequent to the amalgation had to be made by him, his personal attention being needed in a variety of ways,—had deliberately refused to accept the services of a Personal Assistant, where is the need for the appointment of a Personal Assistant to any of his successors who have been relieved of some of that work which Sir Henry Harrison voluntarily imposed upon himself? Being the author of the new sections relating to assessments, Sir Henry Harrison used to hear appeals against assessments Who hears the appeals now? The Vice-Chairman;—and they constitute a very important portion of his work. Therefore, the work of the Chairman has been considerably lightened by reason of these appeals being taken up by the Vice-Chairman. Then, Sir, the work has no doubt increased, but adequate agency has been found for that work. What does the Chairman do? I do not wish in the smallest degree to belittle the work of the Chairman, but it is altogether a portentous myth to say that the work thrown upon the Chairman has been so heavy that some of the Chairmen have been obliged to take leave and that even worse consequences have followed. What is the work of the Chairman now-a-days? He supervises, but he does not and need not go into the details of municipal administration. There is the Assessor, the Engineer, the Vice-Chairman, the Secretary and the Health Officer—the Heads of the great Municipal Departments. These departments are fully equipped, and they lay their reports before the Chairman, and he passes orders. Of course the Chairman has to be in touch with every branch of the administration. But that does not involve hard work; it is more a matter of capacity than work. Therefore, it seems to me that what we want is not so much hard-working men as capable men. For these reasons, I beg to join issue with my hon'ble friend in charge of the Bill in the statement that such a quantity of work has been thrown upon the Chairman since the amalgamation that it is necessary to have a Deputy Chairman. At any rate, the Corporation ought to have the power to decide when a Deputy Chairman is required.

"I must say that I was somewhat taken by surprise at another statement made by the Hon'ble Member in charge of the Bill. He said that the authority that appoints the Chairman ought also to be the authority that should appoint the Deputy Chairman. If that argument is carried to its logical conclusion, the

[*Babu Surendranath Banerjee.*]

Vice-Chairman should also be appointed by the Government, for the Bill places the Vice-Chairman and the Deputy Chairman exactly upon the same footing; but, as a matter of fact, the Vice-Chairman is not appointed by Government. He is appointed by the Corporation, and it is right and proper that the Corporation should retain this right.

"Now, Sir, I must say one word about the work of the Corporation being done two or three times over. I must demur to any such statement, and I think my hon'ble friend knows that the work is better done, by being done in this way, and he ought to know that it is better done. Fifty to sixty items of business, sometimes more, which have been decided by the Committees, come up before the Corporation; and sometimes at a meeting of not more than three-quarters of an hour all these items are disposed of. And the amount of talk! How many talk! How few speeches are made! The meetings of the Corporation, unless there is any contentious matter, are more or less formal meetings, because every item has been carefully gone into at the meetings of the Committees. These Committee meetings have been objected to, but I venture to say that the system of working by Committees is the best, the most efficient, and tho most acceptable feature in the administration of the Corporation. It is this system of working by Committees that makes it possible for the Chairman to discharge the various duties that he has to discharge, and it ensures the harmonious working of the Corporation. I venture therefore to say that it is an error and an antiquated delusion to say that business is brought up two and three times and time is wasted. The items of business are merely brought up for formal confirmation. No speeches are made, no time is spent, and I think it is a distinct advantage that they should be brought up in that way for confirmation before the Corporation, because if mistakes are committed there is an opportunity of rectifying them at the meetings of the Corporation.

"I really must deplore the attitude of the Hon'ble Member in charge of the Bill in connection with this amendment. We have been moving amendments—I do not know how many. Amendments after amendments have all been vetoed. What is the legitimate conclusion to which we are driven? It is this: that this Council is not open to conviction by public discussion or debate, that the Council has definitely made up its mind with regard to this Bill. It seems to me under the circumstances to be a mere waste of

time to move these amendments. Here is a most rational amendment, based upon the Bombay system, based upon considerations of convenience and administrative experience, but I am certain it will be lost. What is the good of arguing? If the Council has made up its mind, I think the best course is to tell us so. We should in that case retire; I say so with some little earnestness, because we feel very strongly about the matter. We have been devoting our time to this work in the hope that we might be able to convince the Council by the arguments we bring forward that our amendments are based upon reason and sound sense; but we find argument, reason, remonstrance all wasted. What is the good of our persevering in this hopeless task? I am perfectly certain Your Honour will sympathise with the feeling which underlies the expression of opinion to which I have felt it my duty to give utterance."

The Hon'ble THE PRESIDENT said:—"I do not think the Hon'ble Member will deny that the Council has listened with the most perfect patience to all the arguments brought forward in support of his motion, and if the decision of the Council after hearing the arguments *pro* and *con* on various amendments happen, to be against the Hon'ble Mover, he is not justified in saying that the Council is irrational in not given effect to his views."

The Hon'ble BABU SURENDRANATH BANERJEE's amendments being severally put, the Council divided in each case as follows:—

Ayes 5.	*Noes 12.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apear.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya; the President.*]

The last-mentioned amendments having been lost, the Hon'ble MR. APCAR's motion that section 28B (*now* 26) be omitted was not put, and he, by leave of the Council, withdrew his other amendments of this section.

SECTION 27.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 28C (*now* 27), sub-section (*1*), after the word "employer" be inserted "or employé".

He said:—"This, Sir, seems so reasonable on the face of it, that I trust it is not necessary to advance any lengthy arguments to support it. I had originally suggested that the word 'employé' might be substituted for the word 'employer,' but the Hon'ble Member in charge of the Bill has been good enough to point out to me that it would be safer not to omit the word 'employer'."

The Hon'ble BABU SURENDRANATH BANERJEE, with the permission of the President, moved that in section 28C (*now* 27), sub-section (*1*), the words "or any relative" be omitted, and that before the word "interest" the word "pecuniary" be inserted.

He said:—"I have already spoken to the Hon'ble Member in charge of the Bill about this amendment. It is an amendment which has become necessary in view of certain changes which I shall presently lay before the Council. The section, with my amendments, would run as follows:—

'No person shall be eligible for the office of Chairman, Vice-Chairman or Deputy Chairman if he has, directly or indirectly, by himself or his partner or employer, any share or pecuniary interest in any contract or employment with, by or on behalf of, the Corporation.'

The Hon'ble THE PRESIDENT:—"I do not quite understand this. The Hon'ble Dr. Asutosh Mukhopadhyaya's amendment was that for the word 'employer' be substituted 'employé'."

The Hon'ble BABU SURENDRANATH BANERJEE:—"If this provision in the Bill were to pass into law, the Corporation would lose the services of one or other at least of its most trusted servants, against whom there does not exist the shadow of a suspicion, *viz.*, the Vice-Chairman, or the License Officer, Babu Romani Mohan Chatterjee. One of these officers must go. I think that would be a distinct loss to the Corporation, and we ought not to insert a provision the

[*Babu Surendranath Banerjee; Mr. Baker; the President; Babu Boikanta Nath Sen.*]

effect of which would be to produce such a result. Therefore, having regard to this particular instance and other instances of the same kind, it seems to me that my amendment is one which ought to be accepted by this Council, and I have the assurance of the Hon'ble Member in charge of the Bill that he considers it to be a proper amendment."

The Hon'ble MR. BAKER said:—"I have considered this matter in communication with the Chairman, and I sent the Hon'ble Babu Surendranath Banerjee the letter I have received from Mr. Bright on the subject. I think the amendment ought to be accepted, namely, to omit the words 'or any relative'. I am also prepared to accept the amendment of the Hon'ble Dr. Ashutosh Mukhopadhyaya, and also the further amendment by the Hon'ble Babu Surendranath Banerjee to insert the word 'pecuniary' before the word 'interest'."

The Hon'ble THE PRESIDENT:—"Then the section will run thus:—

'No person shall be eligible for the office of Chairman, Vice-Chairman or Deputy Chairman if he has, directly or indirectly, by himself or his partner or employer or employé, any share or pecuniary interest in any contract or employment with, by, or on behalf of the Corporation.'"

The Hon'ble BABU BOIKANTA NATH SEN moved that the words "or any relative" and the words "or employment" in section 28C (*now* 27), sub-section (*1*), be omitted.

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Boikanta Nath Sen sent in a list of amendments on Sunday, the 10th instant. Under the rules he is bound to give three days' clear notice of any amendments he wishes to move. As that period has not elapsed, I submit his amendments are out of order and cannot be considered."

The Hon'ble BABU BOIKANTA NATH SEN:—"It is in Your Honour's power to suspend the rules. I suggest that the word 'pecuniary' be inserted before 'interest' and 'any relative' be omitted, also that 'or employment' be omitted."

The Hon'ble THE PRESIDENT:—"I think the Hon'ble Member's object is met by the amendments which the Hon'ble Member in charge of the Bill has intimated his readiness to accept."

[*Babu Boikanta Nath Sen; Mr. Baker; the President; Dr. Asutosh Mukhopadhyaya; Mr. Bolton; Babu Surendranath Banerjee.*]

The Hon'ble BABU BOIKANTA NATH SEN:—"Partly, but not as regards the words 'or employment'."

The Hon'ble MR. BAKER:—"I submit, Sir, having regard to the enormous number of amendments, that it would be well not to consider anything which does not conform to the rules."

The Hon'ble THE PRESIDENT said:—"As a pure matter of grace, I shall admit the Hon'ble Babu Boikanta Nath Sen's amendment, but I hope Hon'ble Members will take notice of the objection which the Hon'ble Member in charge of the Bill has taken, and consult as far as possible the convenience of the Council by adhering to the ordinary rule of giving proper notice of any amendments they wish to bring forward.

"At the present moment the proposal of the Hon'ble Dr. Asutosh Mukhopadhyaya, I understand, is to be withdrawn in favour of the motion which the Hon'ble Member in charge of the Bill has brought forward."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA:—"I have modified my motion in accordance with that suggestion."

The Hon'ble THE PRESIDENT:—"The motion is that in section 28C (*now* 27), sub-section (*1*), for the words 'or employer or any relative, any share or interest in any contract or employment with, by, or on behalf of, the Corporation' the following be substituted—"or employer or employé, any share or pecuniary interest in any contract or employment with, by, or on behalf of the Corporation'."

The Hon'ble MR. BOLTON said:—"If the words 'or employment' are omitted, the words 'or any relative' should be retained. It is desired to omit the words 'any relative' because they refer to 'employment'. The omission of 'employment' would render the retention of 'relative' unobjectionable."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I would rather omit the word 'relative'."

[*Mr. Bolton; Babu Surendranath Banerjee; the President; Dr. Asutosh Mukhopadhyaya; Babu Boikanta Nath Sen.*]

The Hon'ble MR. BOLTON:—"The motion of the Hon'ble Babu Boikanta Nath Sen as regards the omission of 'or employment' should be voted on first. The retention or omission of 'or any relative' is dependent on that vote."

The Hon'ble BABU SURENDRANATH BANERJEE:—"There is considerable force in the argument of the Hon'ble Mr. Bolton."

The Hon'ble THE PRESIDENT:—"Now we come to the substantive proposal of Dr. Asutosh Mukhopadhyaya, which I have twice read out to the Council."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion was then put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE'S motion was also put and agreed to.

The Hon'ble BABU BOIKANTA NATH SEN'S motion that the words "or employment" be omitted was put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE'S motion that "pecuniary" be inserted before "interest" in section 28C (*now* 27), sub-section (*1*), having been carried, the Hon'ble BABU BOIKANTA NATH SEN, by leave of the Council, withdrew the similar motion standing in his name.

The Hon'ble THE PRESIDENT announced that section 28C (*now* 27), sub-section (*1*), as amended in Council, ran as follows:—

"(*1*) No person shall be eligible for the office of Chairman, Vice-Chairman or Deputy Chairman if he has, directly or indirectly, by himself or his partner or employer or employé, any share or pecuniary interest in any contract or employment with, by, or on behalf of, the Corporation."

SECTION 28.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 28D (*now* 28), sub-section (*1*), for the words "seriously indebted to any person" be substituted "an uncertificated bankrupt or an undischarged insolvent."

[*Dr. Asutosh Mukhopadhyaya.*]

He said:—"My object in moving this amendment is to bring this section into conformity with section 31 (*now* 39), clause (*c*). Section 31 (*now* 39) deals with disqualifications for being a Commissioner, and clause (*c*) lays down that a person shall be disqualified if he is an uncertificated bankrupt or an undischarged insolvent. That seems to me to be more specific than the language used in the present section, namely, 'seriously indebted to any person.' I would point out to the Council that the language of section 31 (*now* 39), clause (*c*), is taken from the English Municipal Act, 45 & 46 Vict., chapter 50, section 39. That section says:—

'(*1*) If the mayor or an alderman or councillor—

(*a*) is declared bankrupt or compounds by deed with his creditors, or makes an arrangement or composition with his creditors, under the Bankruptcy Act, 1869, by deed or otherwise, or

(*b*) is (except in case of illness), continuously absent from the borough, being mayor, for more than two months, or, being alderman or councillor, for more than six months,

he shall thereupon immediately become disqualified and shall cease to hold the office.

(*2*) In any such event the Council shall forthwith declare the office to be vacant, and signify the same by notice signed by three members of the Council, and countersigned by the town clerk, and fixed on the town hall, and the office shall thereupon become vacant.

(*3*) Where a person become so disqualified by being declared bankrupt or compounding or making an arrangement or composition as aforesaid, the disqualification, as regards subsequent elections, shall, in case of bankruptcy, cease on his obtaining his order of discharge, and shall, in case of a compounding or composition as aforesaid, cease on payment of his debts in full, and shall, in case of an arrangement as aforesaid, cease on his obtaining his certificate of discharge.

(*4*) Where a person becomes so disqualified by absence, he shall be liable to the same fine as for non-acceptance of office recoverable summarily, but the disqualification shall, as regards subsequent elections, cease on his return.'

"That is practically the same as the language used in section 31 (*now* 39), clause (*c*). I have not been able to understand why in section 28D (*now* 28) the somewhat vague expression 'seriously indebted to any person' is put in. What amount of indebtedness would be called 'serious', and who is to decide it? Suppose, again, a man is indebted to a person in Delhi or Agra. Would he be disqualified from becoming a Vice-Chairman? I think the proper test is whether the man is bankrupt or not. He may have debts, and at the same time he

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Apcar.*]

may be a perfectly solvent man. Indeed, if I may say so without impropriety the language used in this section is so vague that, though it may satisfy lay minds, it would not be tolerated for a moment by any lawyer accustomed to accurate habits of thought."

The Hon'ble MR. BAKER said:—"I do not agree to this amendment. The Hon'ble Member has omitted to notice that this section deals with the disqualification of the Chairman, Vice-Chairman or Deputy Chairman, who are the executive officers of the Corporation. Section 31 (*now* 39) relates only to the disqualification for Commissioners. Now, Commissioners are not part of the executive. It may be quite right that a person should not be disqualified from being a Commissioner unless he is an uncertificated bankrupt, but a very much less degree of indebtedness would be sufficient to disqualify a man from occupying the responsible executive position of Chairman, Vice-Chairman or Deputy Chairman. The Hon'ble Member referred to the English Statute, and he said that the terms used there in respect of the mayor, alderman and councillors were 'uncertificated bankrupt' and 'undischarged insolvent'; but the mayor, alderman and councillors of an English Corporation are not executive officers; they simply correspond to the Commissioners in Calcutta, and therefore section 31 (*now* 39) has been framed so as to use the same terms. He said also that the term 'seriously indebted' is vague, and he wished to know whether, if one of these officers was seriously indebted to a person in Delhi, he would be disqualified from holding office in Calcutta. The answer is, yes, he would, and that was inserted deliberately by the Select Committee. In the original Bill the words were 'seriously indebted to any person in Calcutta,' and that was struck out by the Select Committee, I think on the motion of the Hon'ble Babu Surendranath Banerjee, because he considered it improper—and we all considered it improper—that the Vice-Chairman or Deputy Chairman should hold office if they were seriously indebted to anybody anywhere. I hope this amendment will not be accepted."

The Hon'ble MR. APCAR said:—"My difficulty is the construction to be placed upon the term 'seriously indebted.' Who is going to decide whether a person is seriously indebted? The wording is so vague that it leaves the question in a very unsettled position. It will depend on one person thinking he is seriously indebted when another person would think that, although he is

indebted, he is not seriously indebted. So that, since it is a disqualification, it is too vague, as it is now drafted, for me to accept the section. If I could only see my way to accepting any section which would preclude any one who is in a position of indebtedness from being elected to a responsible position such as those referred to in this section, I would certainly give my support to it; but I find a very great difficulty in this section: it is undefined what is 'seriously indebted,' and I do not know who is to decide that question."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am partly responsible for this provision in the Bill. As my hon'ble friend in charge of the Bill has observed, originally the section was as he described it to be: 'seriously indebted to any person in Calcutta,' and then at my suggestion it was put in its present form. There is a good deal of force in the arguments of my hon'ble friends Dr. Asutosh Mukhopadhyaya and Mr. Apcar, that 'seriously indebted' is an expression which is somewhat vague; but it seems to me that in actual practice there will not be much difference of opinion as to what is meant by 'serious indebtedness.' A great many things appear vague when they are down on paper, but when we come to deal with them, we find they are not really so, and we are able to arrive at a satisfactory conclusion. I do not think there will be any serious difficulty in deciding as to whether a particular case is a case of serious indebtedness or not; and, inasmuch as we are all interested in maintaining and preserving the purity of the highest executive officers of the Corporation, it is a matter of importance that we should legislate in such a way as to ensure that purity of administration is a supreme consideration."

The amendment was put and lost.

The last amendment having been put and lost, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name that in section 28D (*now* 28), sub-section (*2*), for the words "so indebted" be substituted "an uncertificated bankrupt or an undischarged insolvent".

SECTION 29.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 28DD (*now* 29) be omitted.

[*Babu Surendranath Banerjee; Mr. Apcar.*]

He said:—"This section provides that when a servant of the Government is appointed to be Chairman, Vice-Chairman or Deputy Chairman, the Corporation may pay, in addition to his salary and house-allowance (if any), any contribution which may, for the time being, be levied by the Government in respect of his pension or leave-allowances. Such contributions have never been paid by the Corporation. This section is put in a permissive form, but I regret to say that there is a tendency to interpret the word 'may' to mean 'shall,' and therefore it is necessary to guard against the provision becoming compulsory in actual practice. The Corporation have never made such payments, and I am afraid that the discretion here vested in them is likely to operate in a manner prejudicial to the interests of the Corporation. Things should be left as they are: there is no reason for a change. A mere desire for change ought not to be a sufficient reason for enacting a provision of this kind."

The Hon'ble Mr. Apcar said:—"I agree with the hon'ble mover of the amendment that as a rule in construing the Municipal Acts the word 'may' will always be read as if it was 'shall,' and the result would be that, instead of there being really an option left to the Corporation, it will become a compulsory provision. The next point in connection with this section is this: my hon'ble friend in charge of the Bill told the Council that under the Civil Service Regulations the Chairman of the Corporation has not to pay any contribution towards pension or leave-allowances; so that, as far as the Chairman is concerned, the expression may, for all practical purposes, be dropped from this section, but if it is left there, changes might be made which are not anticipated now, and it is not right that there should be an opportunity for that to be possible. The Vice-Chairman at present pays his contribution to the funds of the Municipality, and I don't see why he should cease to do so. Then, with regard to the Deputy Chairman, I cannot understand, when the Corporation pays his salary, why they should also have to contribute towards his pension and leave-allowances. There is, moreover, this little difficulty, that the payment here referred to is in addition to salary and house-allowance. There is no specific provision for the Vice-Chairman being allowed house-allowance, and no provision either with regard to the Deputy Chairman being given house-allowance. But this section applies to the Vice-Chairman and the Deputy Chairman as well as to the Chairman as being officers to be allowed house-allowance. That brings in a complication in the situation which I should be glad to see avoided. The result is this, that the

Chairman, as a matter of fact, is not called upon to contribute towards pension and leave-allowances; so that his name may be eliminated from the section. The Deputy Chairman will get a certain salary, and the Corporation should not be forced to contribute towards his pension and leave-allowances as well. And the Vice-Chairman does now contribute towards his pension. This section does not apply to any one, unless he happens to be a Government servant. I have strong reasons for not wishing the Vice-Chairman to be a Government servant. He may be a Government servant when he offers himself for election, but he should not continue to be a Government servant after he has been appointed Vice-Chairman. I desire to see in the position of the Vice-Chairman one who would look to his position there as his future career; not one who would come to the Corporation for a short time and then go back to the service of the Government. We want one who will be able to turn to good use the benefit of his experience in the Municipality; the longer the better, so that his experience may be of use when he is called upon to give advice with regard to the administration of the affairs of the Corporation. If, however, there is going to be house-allowance in any form, it should be made definite and clear, because under this Bill the payment of house-allowance refers to the Chairman alone, or it should be made clear that the Vice-Chairman and the Deputy Chairman shall not be allowed house-allowance; but at present no such provisions appear in the Bill.

"Then I have a further amendment which follows immediately after, and which it may be convenient to mention now, namely, that the words 'Vice-Chairman or Deputy Chairman' be omitted from this section 28DD (*now* 29). The amendment brings my objections to a point. These officers are not permitted house-allowance, and their names, therefore, should not appear in this section; otherwise it might be taken to imply that house-allowance is to be given to them."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked permission to take up an amendment of which he had given notice and which covered the same ground, namely, that in section 28DD (*now* 29), line 3, for the word "may" be substituted "shall not".

He said:—"It was my intention, in placing this amendment on the agenda, to avoid the possibility of the word 'may' being taken to mean 'shall'; therefore I suggest that 'shall not' be substituted for 'may'. My reasons

are shortly these: as far as the Chairman is concerned, we have already decided in dealing with section 11 (*now* 12) that the Local Government is to fix his initial pay and annual increments at any amount which the Government thinks proper; and, if so, it is unnecessary to have any provision such as this, because the Government is entitled to fix the salary at a figure sufficient to cover both his pension and leave-allowances. As far as the Vice-Chairman and Deputy Chairman are concerned, no case has been made out why house-allowance, which has never been given before, should be given now."

The Hon'ble MR. BAKER said:—"There seems to be some misapprehension regarding the provisions of this section. It seems to be supposed that it imposes some novel and additional kind of expenditure upon the Corporation. That is not the case. It merely states what is the Government rule in regard to officers of Government whose services are lent to a Municipality. When the services of a Government officer are lent for a period not exceeding six months, it is unnecessary under the rules of the Civil Service Regulations for any contribution to be made towards pension and leave-allowances. All that this section does is to give legal effect to the rule as to the payment of contribution when the period of service exceeds six months. A single exception, as I mentioned the other day, has been allowed by the Government of India in favour of the Chairman. In his case no contribution is levied, and I should not have mentioned it but for the fact that the question has been raised. It is also my duty now to say that the reason assigned in the Government regulations for exempting the Chairman is the fact that that officer was also the Commissioner of Police. That reason has ceased to operate ten years ago, and when the attention of the Government of India is called to that fact, that rule may possibly be changed, though I hope they will not make any alteration in the present arrangements. If the services of a Government officer are employed in any of these appointments, the Corporation must accept whatever terms the Government chooses to exact, otherwise they will not get the services of that officer. Moreover, the payment will cost the Corporation nothing; because, if the contributions are not paid by the Corporation, the officer so transferred will have to pay them himself and a higher salary would in that case have to be assigned to him. It can make no possible difference to the Corporation whether they pay the contribution towards pension and leave-allowances to Government or to the officer for payment to Government. The

amount of contribution is calculated on actuarial principles on the actual pay, so as to exactly cover the pension and leave-allowances. It is not very likely that the Vice-Chairman will ever be a Government officer. I am very much in agreement with the Hon'ble Mr. Apcar in considering it undesirable that the Vice-Chairman should be a Government servant. But we do not know what the Corporation may wish to do. Why should we make it impossible for the Corporation to secure the services of a Government officer in that capacity if they desire it?"

The Hon'ble MR. APCAR said:—"With regard to this question of contribution for pension and leave-allowances, I am a little taken by surprise, because, when I mentioned that there might be an addition to the salary of the Chairman in the shape of these contributions, I was met by the statement that the Chairman of the Corporation is specially exempted from such contributions. Now I find that there is a prospect that the present rule granting such exemption may be annulled. The Government has absolute discretion to give any salary it likes to the Chairman. Why then force the Corporation under another guise to contribute to the Chairman's salary? The Government can direct that a salary of Rs. 5,000 a month should be given to the Chairman; then why should the Corporation be saddled with additional expenditure on account of contribution?"

The Hon'ble MR. BAKER:—"The Corporation is not saddled with any additional expenditure."

The Hon'ble MR. APCAR:—"If an officer of the Corporation seeks to get a pension out of our pension fund, he has to pay contribution to that pension fund; so that, as I understand this section of the Bill, we shall have to pay something additional; but if the payment on account of contribution for pension and leave-allowance is to come out of what the Chairman receives as salary, let it be in some clear form, so that the public may know what the Corporation has to pay, not that he shall receive a certain sum under the name of salary, and that he shall also benefit from the rate-payers' funds under a form they would not appreciate. Then, with regard to the Deputy Chairman, if he comes for a short period, the amount would have to be contributed for him, and after he leaves the Corporation will have

no further interest in him. Then, with regard to the Vice-Chairman, he may be a Government servant, but it will be very mischievous if there is any possibility of the Vice-Chairman not severing his connection with any other service whatever. And as to the proposed house-allowance to the Vice-Chairman and the Deputy Chairman, the objection to that proposal has not been met. The payment of house-allowance to the Vice-Chairman and the Deputy Chairman has not been provided for in specific terms, but it is brought in in this way, and I fear that it may be made use of as an indication that they may be paid house-allowance. For these reasons I object, first, to this section being left in the Bill, and I move accordingly that the section be omitted; and, secondly, if it is to be left in the Bill, I contend that the words 'Vice-Chairman or Deputy Vice-Chairman' should be omitted."

The Hon'ble MR. BAKER:—"I forgot to say anything with regard to the remarks which fell from the Hon'ble Mr. Apcar on the question of the inclusion of the Vice-Chairman and Deputy Vice-Chairman in this section. This section gives no authority for the payment of house-allowance to the Vice-Chairman or the Deputy Chairman."

The Hon'ble MR. BUCKLEY said:—"I do not consider this matter to be of any great importance one way or the other. There is another section (section 61C—*now* 69) which applies to contributions to be paid on account of officers of the Municipality. In a particular case which I have in mind, an Engineer in the service of the Government was appointed to be Engineer to the Corporation; his salary was arranged at so much, and the Corporation did agree to pay his contribution or rather, speaking more correctly, the Engineer's salary was fixed so as to cover his contribution to Government. It so happened that two or three years after that Engineer ceased to pay contribution to the Government, and the Corporation found it very difficult to reduce his pay and, as a matter of fact, they did not do so, and he continued to obtain the advantage of receiving an addition of some Rs. 200 or Rs. 300 to his pay, which he was not, strictly speaking, entitled to at the time."

His Honour THE PRESIDENT said:—"The effect of keeping in this section as it stands will be that, as the Vice-Chairman may either be an official or a non-official, the existence of this clause may possibly turn the scale in favour of a non-official."

[*Babu Surendranath Banerjee; Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The motion of the Hon'ble BABU SURENDRANATH BANERJEE and the Hon'ble MR. APCAR'S motion that section 28DD (*now* 29) be omitted was then put and lost.

The Hon'ble Mr. APCAR'S motion that in section 28DD (*now* 29) the words "Vice-Chairman or Deputy Chairman" be omitted was also put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S amendment of section 28DD (*now* 29) was also put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following proviso be added to section 28DD (*now* 29):—

"Provided that no contribution under this section shall be paid, except by a resolution of the Corporation in favour of which not less than two-thirds of the Commissioners voting have voted."

He said—"In this motion I follow the analogy of section 65 (*now* 73) of the Bill. If you turn to that section you will find that, as far as the pension rules are concerned, they cannot be adopted by the Corporation except by a resolution in favour of which two-thirds of those voting have voted. This is found to be a very necessary safeguard, because the section deals with a question of money; and inasmuch as the Council has not adopted the motion which I have just moved, I think it would be as well to have this safeguard, namely, that when a contribution is paid it shall be paid by a vote of two-thirds of the Commissioners voting. It is a very simple matter."

The Hon'ble MR. BAKER said:—"There is no sort of analogy between this section and section 65 (*now* 73) of this Bill. If the Corporation choose to avail themselves of the services of a Government officer who comes under the rules of the Civil Service Regulations, they have to pay this contribution, for the Government will not lend the services of such an officer except on payment of the contribution. The Corporation do not require a vote of two-thirds to appoint the officer; then why should they require a vote of two-thirds for the formal act of paying his contribution for pension and leave-allowances? It is immaterial whether the Corporation pay the contribution directly to the officer in the shape of an addition to his salary, or whether they contribute towards his pension and leave-allowances to the Government."

[*Mr. Apcar; Mr. Baker.*]

The Hon'ble MR. APCAR said:—"Then, as I understand the Hon'ble Member in charge of the Bill, the word 'may' in this section means 'shall'; for, from what the Hon'ble Member has said, the Government will not lend the services of their officer unless the Corporation are prepared to pay the contribution. Then what is the use of this option? Why not say directly that the Corporation 'shall pay', instead of leaving the section in this way?"

The motion was then put and lost.

SECTION 30.

The Hon'ble MR. BAKER moved that the following section be inserted after section 28DD (*now* 29), namely—

"28EE (*now* 30). When the Vice-Chairman is not a servant of the Government, the Corporation may, with the sanction of the Local Government, grant him a pension or gratuity on retirement, or grant a compassionate allowance to his family on his death."

Grant of pension or gratuity to Vice-Chairman.

He said—"It was assumed, when the sections were drafted authorising the Corporation to grant pensions to their officers, that the Vice-Chairman was a municipal officer, but we overlooked the fact that the Select Committee decided that neither the Vice-Chairman nor the Deputy Chairman was technically a municipal officer. They occupy an intermediate status between the Chairman and the officers of the Corporation. Therefore, the provisions of section 65 (*now* 73), which regulate the pensions payable to municipal officers, are not applicable to the case of the Vice-Chairman, and there therefore remains no power in the Corporation to grant a pension to the Vice-Chairman. This oversight was brought to my attention about a month ago, and I then arranged to give notice of the introduction of these words. I have, however, since ascertained that under the present rules the Vice-Chairman contributes towards his pension, and that he will receive his pension when he becomes entitled to it, and that in the event of his death before retirement on pension a compassionate allowance will be allowed to his family, the particular members of which who are so entitled being specified in the rules, such as wife, son, &c. It is intended not only that we should empower the Corporation to grant a pension to the Vice-Chairman, but also to give his family some compassionate allowance, such as is provided for under the present pension rules. In all cases the sanction of the Government will be required to the particular amount to be paid as compassionate allowance, but I have no doubt that whatever reasonable amount may be proposed will be sanctioned by the Government."

[*Babu Surendranath Banerjee; Mr. Apcar; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I will support this motion, and I may say that my gratification is all the keener because it is one of the very few amondments which the Hon'ble Member has proposed that I have been able to support."

The motion was put and agreed to.

SECTION 31.

The Hon'ble MR. APCAR moved that in section 28E (*now* 31), proviso (*a*), the words "Vice-Chairman or Deputy Chairman" be omitted.

He said:—"I have already indicated the reasons for this amendment. I do not want to see either the Vice-Chairman or the Deputy Chairman a Government officer, because I wish to secure their services on a permanent footing. It is to the interest of the Corporation that these officers should not be changed every few years."

The Hon'ble MR. BAKER said:—"The effect of this amendment will be to make it impossible to appoint a Government officer to be either Vice-Chairman or Deputy Chairman of the Corporation. As regards the Vice-Chairman, it is not of very great consequence, because he is not likely ever to be a Government officer. But even in his case, if the Corporation desire to select a Government officer, I do not see why permission should be refused. They might be willing to choose a senior Deputy Magistrate within a year or two of his retirement and one who would retire from Government service thereafter. In such a case, by including him in this section he could complete his service for pension without reverting to the active service of the Government. But with regard to the Deputy Chairman, the objection is much stronger, because it is intended that either a Civilian or an Engineer in the service of the Government should be so employed. He would be an understudy to the Chairman; and it is undesirable to incorporate in the Bill any provision which would make it impossible to employ such an officer in that position."

The Hon'ble MR. APCAR, in reply, said:—"A Government officer will always be eligible for appointment; but when he is elected he should be made to choose between the service of the Corporation and that of the Government. With regard to the appointment of a Deputy Magistrate within a year or two of his retirement, I am not prepared at the moment to say what the effect of such an

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

appointment will be. I strongly deprecate the idea that we should have a Government servant in an office in which it is very necessary that the incumbent should be a permanent officer, and that he should not make a convenience of the service of the Corporation."

The motion was put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 28E (*now* 31), proviso (*b*), sub-clause (*ii*), the words "an additional member of the Council of the Governor General of India for making laws and regulations or" be added.

He said:—"This amendment, Sir, I may fairly claim, is absolutely harmless. If the Chairman can be allowed to be a member of this Council, there is no reason why he should not be allowed to be a member of the Supreme Council, if the Government of India so appoint him."

The Hon'ble MR. BAKER said:—"I am ready to accept this amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I strongly object to this amendment. It is not harmless; it is positively mischievous. The Chairman deals with local matters, and it is only right and proper that he should be allowed to be a member of the local Council, but not a member of the Imperial Legislative Council. Has the Chairman of the Corporation anything to do with matters which are dealt with in the higher Council? I am not aware of any Chairman of the Corporation having been a member of the Imperial Legislative Council. You have it in the Bill that the Chairman and the Vice-Chairman shall devote their whole time to the duties of their office. If the Chairman or the Vice-Chairman or the Deputy Chairman is to be a member of the Imperial Legislative Council, it will be taking them away from their duties to which by law they are obliged to devote their whole time and attention Is my hon'ble friend, the mover of the amendment, really serious when he suggests that the Deputy Chairman, who is likely to be a member of the Indian Civil Service, say of seven or eight years' standing, should be a member of the Imperial Legislative Council? I do not think he could have suggested this amendment in seriousness, or that the Council will, for a moment, think of acting in accordance with his suggestion. This amendment is not, as the Hon'ble Member says, harmless.

[*Babu Surendrnath Banerjee; Mr. Apcar; Mr. Oldham; Dr. Asutosh Mukhopadhyaya.*]

It is mischievous. The question we have to decide is not whether it is harmless, but whether it is useful. To say that it is harmless is a very negative sort of qualification."

The Hon'ble MR. APCAR said:—"I cannot understand the object of this amendment, and I think the Hon'ble Member in charge of the Bill is inconsistent in agreeing to it if he thinks that the Chairman is or will be overwhelmed with work and will require the assistance of a Deputy Chairman."

The Hon'ble MR. OLDHAM said:—"I, too, oppose this amendment. Hon'ble Members have more than once said that the suggestion of any possible situation in the Bill must ultimately have the effect of making that possibility a reality. If this is true, we should see the Deputy Chairman, possibly a civil servant of two or three years' standing, forced into becoming a member of the Imperial Council!"

The motion being put, the Council divided as follows:—

Ayes 7.	*Noes 9.*
The Hon'ble Mr. Buckley.	The Hon'ble Babu Jatra Mohan Sen.
The Hon'ble Mr. Buckland.	The Hon'ble Babu Boikanta Nath Sen.
The Hon'ble Mr. Handley.	The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Rai Durga Gati Banerjea, Bahadur.	The Hon'ble Mr. Apcar.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Mackenzie.
The Hon'ble Khan Bahadur Moulvi Delawar Hossain Ahmed.	The Hon'ble Mr. Spink.
The Hon'ble Mr. Baker.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Bolton.

So the motion was lost.

SECTION 33.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 28G (*now* 33), line 1, for the first "or" be substituted a comma, and for the second "or" be substituted "and".

He said:—"I must confess that I do not understand the intention of section 28G (*now* 33). It says—

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee; Mr. Apcar.*]

'The Chairman or the Vice-Chairman or the Deputy Chairman shall, except upon such holidays as are allowed by the Government, and unless prevented by sickness or other reasonable cause, attend daily at the municipal office for the transaction of business connected with or arising under this Act.'

"The object of my amendment is to make it obligatory for the Chairman, the Vice-Chairman and the Deputy Chairman to attend daily at the municipal office. I do not understand how the absence of one of these gentlemen is atoned for by the presence of the others."

The Hon'ble MR. BAKER said:—"I see no objection to this amendment."

The motion was put and agreed to.

SECTION 34.

The Hon'ble BABU SURENDRANATH BANERJEE'S motion that section 28B (*now* 26) be omitted having been lost, the Hon'ble MR. APCAR, by leave of the Council, withdrew the motion, standing in his name, that in section 28H (*now* 34), sub-section (*1*), the words "and the Deputy Chairman" be omitted.

The Hon'ble MR. APCAR moved that in section 28H (*now* 34), sub-section (*1*), after the words "same authority" the words "and shall exercise the same powers" be inserted.

He said:—"I wish to bring the provisions of this section into conformity with the law as it now is. Under the present Act the Vice-Chairman has the same powers as the Chairman, but subject to the Chairman's authority, and subject also to the exercise of any particular powers being taken from the Vice-Chairman by the Chairman. That has been a very useful provision. The power remains in the Chairman to allow such powers only to be exercised by the Vice-Chairman as he thinks fit. Many matters may arise in which the Vice-Chairman may be of great use. We have seen that his services have been of the most beneficial character. Many questions might not occur to the Chairman in which the Vice-Chairman may be of use. I will give one instance. There was a comparison made with regard to certain quantities between the tender and the sanctioned estimates, and the result of that comparison was stated by the Engineer to be a loss of Rs. 15,000. The Vice-Chairman, when the bills came before him, went personally into the matter to see how the matter stood, and he was able to show that there was a difference,

not of Rs. 15,000, but of a lakh of rupees, and also after personal inspection of certain works found that there had been many charges made which ought not to have been made. All this was in the interest of the rate-payers. It did not require the authority of the Chairman for him to scrutinise the bills or to personally inspect the works. It is one thing for the Vice-Chairman to have full powers conferred upon him and any to be taken away, and another thing for the Chairman to choose the powers which should be given to the Vice-Chairman. That I think should be deprecated, and for the benefit of the rate-payers full powers should be conferred upon the Vice-Chairman."

The Hon'ble MR. BAKER said:—"As the amendment is worded, I think it makes nonsense of the section. I think that what the hon'ble mover of the amendment really means is that the last three and-a-half lines of clause (*1*) of section 28H (*now* 34) should be omitted also; clearly the latter part of the clause is inconsistent with the first. I think probably that the Hon'ble Member intends that the last three-and-a-half lines of clause (1) of this section should be omitted. [The Hon'ble MR. APCAR:—"Yes, I do."] I entirely object to this proposal, for the effect of it will be to make the Vice-Chairman and the Deputy Chairman in some undefined and not very intelligible way independent of the Chairman, which, I submit, is an absolutely impossible position. The Vice-Chairman and the Deputy Chairman will not be Commissioners; they are simply the Chairman's assistants, and it is a quite impossible position to recognize them as deriving their authority in some way or other from the Corporation. They must be solely responsible and subordinate to the head of the executive. Any other arrangement would lead to friction and all manner of confusion. You cannot split up the powers of the Chairman between the Vice-Chairman and the Deputy Chairman. In drafting the section we intended to make it clear that the Vice-Chairman and the Deputy Chairman, who are the lieutenants of the Chairman, should have full authority to exercise all the legal powers of the Chairman, but should only exercise such powers as the Chairman may delegate to them from time to time and within such spheres as he may prescribe for each of them. That is the only intelligible position."

The Hon'ble MR. BOLTON said:—"I read the section as the Hon'ble Member in charge of the Bill reads it. The section is inconsistent. If the Vice-Chairman and the Deputy Chairman are vested with all the powers of the Chairman, it

[*Mr. Bolton; Babu Boikanta Nath Sen; Babu Surendranath Banerjee.*]

would manifestly be inconsistent to say that they shall exercise only such powers as the Chairman may make over to them. They might claim to exercise all powers independently of any delegation, and that would be entirely at variance with their position as assistants to the Chairman. The work of the Corporation might seriously suffer if this amendment were carried."

The Hon'ble BABU BOIKANTA NATH SEN said:—"The amendment is to the effect that the words from 'and shall exercise' to 'respectively' in section 28H (*now* 34), sub-section (*1*), be omitted. I submit that they are quite redundant and unnecessary. Sub-section (*4*) of section 28H (*now* 34) provides that all acts and things performed and done by the Vice-Chairman or the Deputy Chairman during his tenure of office and in virtue thereof shall for all purposes be deemed to have been performed and done by the Chairman. The first portion of sub-section (*1*) of section 28H (*now* 34) makes the duties of these two officers complete; then the delegation under the subsequent portion of that sub-section must at times bring about great confusion. If it is provided that all acts performed by the Vice-Chairman and the Deputy Chairman will be as valid as if they were performed by the Chairman, then in the case of delegation there must arise some confusion. There is the direct provision that they are to act under the general direction and control of the Chairman, and therefore, instead of delegation, the Chairman may supervise and keep their proceedings under control. I submit that the latter portion of sub-section (*1*) of section 28H (*now* 34) is redundant and unnecessary, as it would lead to confusion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think I raised this very point in the Select Committee, but the Hon'ble Member in charge of the Bill would not accept my amendment, though he made a certain modification in the section. The object of the Hon'ble Mr. Apcar's amendment, as far as I understand it, whatever may be the phraseology, is to restore the law to its present position. Under section 61 of the present Act you will find that the Vice-Chairman may exercise on behalf of the Commissioners the same authority as the Chairman, subject to his general direction and control. The authority of the Vice-Chairman is co-extensive with the authority of the Chairman, but he is subordinate to the Chairman. The object of the amendment is to vest in the Vice-Chairman the same authority which is now exercised by him, and to place him, as under the present law, in a position of subordination to the Chairman.

[*Babu Surendranath Banerjee; Mr. Apcar.*]

The Vice-Chairman will not be independent of the Chairman. My friend's amendment will not militate against the principle of co-ordinate authorities which has been accepted by the Council; and, having regard to the instances alluded to by the Hon'ble Mr. Apcar, it is undeniable that the exercise of such powers as he now possesses by the present Vice-Chairman of the Corporation, Babu Nilamber Mukerjee, has been attended with substantial benefit to the rate-payers. Suppose a Chairman, who had this power of general control and direction, did not delegate his power to the Vice-Chairman, then it would have been impossible for the Vice-Chairman to have undertaken that extensive and thorough enquiry into the working of the Warrant Department which has been attended with such admirable results. Suppose the Chairman did not delegate these powers to the Vice-Chairman, it would have been impossible for him to have undertaken the scrutiny which he exercised in connection with the large drainage works now under construction. If you have a good man as Vice-Chairman, it would be as well to trust him wholly. The Corporation may be trusted to appoint the best man they could get as their Vice-Chairman; and, if you have a good man, it would not be wise to place him in a position of subordination such as is provided in the Bill. There may, perhaps, be a risk in making him independent of the Chairman, but that is avoided when he is to exercise his powers subject to the general control and direction of the Chairman. But serious inconvenience might in some cases arise in the absence of delegated authority."

The Hon'ble MR. APCAR, in reply, said:—"What I wish to bring about is that the law should be allowed to remain as it is. I do not wish to put the Vice-Chairman on the same plane as the Chairman. It would be impossible to carry on the administration of the municipality if that was so. The section under consideration provides that the Vice-Chairman shall be subordinate to the Chairman. But suppose power was delegated to the Vice-Chairman to check the Engineer's bills and he said to the Chairman 'I have great suspicions about certain matters; give me power and authority to see whether certain works have been carried out in a proper manner,' it would throw an invidious duty upon the Chairman to give him that sanction. If matters were left as they now are, then the Vice-Chairman, although delegated to do certain works, might usefully employ himself in certain other work if he were to see an opportunity of usefulness. The power now vested in the Vice-Chairman has been found useful in practice and has not been found embarrassing, nor has there been any suspicion on

insubordination. I say let the whole section remain as it is in the present Act and according to the amendment I have submitted. Evidently it is intended that the Deputy Chairman should have certain powers and the Vice-Chairman certain other powers, but at the same time there seems to be an intention of depriving them of the independent powers conferred upon the Chairman by this Bill."

The motion was then put and lost.

The Hon'ble MR. APCAR's last amendment having been lost, he, by leave of the Council, withdrew the motion, standing in his name, that section 28H (*now* 34), sub-section (*2*), be omitted.

For the same reason the Hon'ble BABU BOIKANTA NATH SEN, by leave of the Council, withdrew the motion, standing in his name, that the words "and shall exercise such of the powers . . . . respectively" in section 28H (*now* 34), sub-section (*1*), be omitted.

The Hon'ble BABU JATRA MOHAN SEN moved that in sub-section (*2*) of section 28H (*now* 34) the words "and the General Committee" be inserted after "Corporation."

The motion was put and agreed to.

SECTION 35.

The Hon'ble MR. APCAR, by leave of the Council, withdrew the motion, standing in his name, that in section 28J (*now* 35), sub-section (*2*), proviso, the word "Vice-Chairman" be omitted.

The Hon'ble Mr. APCAR moved that in section 28J (*now* 35), sub-section (*2*), proviso, after the word "class" the words "and shall be paid by the Government, except when the Chairman or the Deputy Chairman is on privilege leave" be added.

He said:—"I believe that, at present, when the Chairman goes on privilege leave, the Corporation pay his salary, but when he goes on furlough or on sick leave or leave on private affairs, the Corporation do not pay. We have had instances when a Chairman has gone on furlough and has not returned to the service of the Corporation. It may be that the views of the Government in

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Handley; Mr Apcar.*]

He said:—"This amendment is a purely verbal one. What I have in view is the body I have the honour to represent in this Council, which will not come under any part of the description 'a person, or a company, firm, or other association of individuals'; therefore, I venture to suggest that the words 'body corporate' be added."

The Hon'ble MR. BAKER said:—"I have been advised that this amendment is unnecessary, because in the term 'association of individuals' every thing of the kind the hon'ble mover of the amendment contemplates is included."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA:—"An association of individuals will mean a voluntary association of individuals, and will not apply to a Corporation created by statute, like the University of Calcutta; therefore it will be safer to adopt this amendment. It will clear up any possible misapprehension."

The Hon'ble MR. HANDLEY said:—"I think the contention of the Hon'ble Member for the University is a sound one, as the words 'association of individuals' might mean a voluntary association of individuals; whereas, as the Hon'ble Member has explained, the University will be included in the term 'body corporate'."

The Hon'ble MR. BAKER:—"The words proposed to be added will not only include the University but other bodies corporate, such as the Port Trust; but I do not see any harm in doing so."

The Hon'ble MR. APCAR said:—"I am not able to say at the moment that the words of the section would include a body of persons such as the University. If the Government are willing to give votes to such a body of persons—and I see no reason why they should not do so—it seems to me that it would be better to add the words proposed by the hon'ble mover."

The Hon'ble MR. BAKER:—"In view of what has fallen from the hon'ble the Legal Remembrancer, I have no objection to accept these three amendments."

The motions were then put and agreed to.

The Council adjourned to Wednesday, the 13th September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 7799—800—8-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met at the Council Chamber on Wednesday, the 13th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. F. HANDLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble MR. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

THE CALCUTTA MUNICIPAL BILL.

SECTIONS 23 AND 24.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved, in substitution for his former motions to the same effect for the amendment of section 26E (*now* 23),* sub-section (*1*), that clauses (*i*) and (*ii*) of section 26E (*now* 23) be amalgamated so as to run thus:—

> "(*i*) to make arrangements to its satisfaction for the proper performance of the duties referred to in clause (*a*), or to make financial provision to its satisfaction for the performance of any such duty, as the case may be, or",

and that the present clause (*iii*) be numbered (*ii*).

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved, in substitution for his former motion for the amendment of section 26F (*now* 24), sub-section (*1*), that in section 26F (*now* 24), line 3, the words "or clause (*ii*)" be omitted.

The Hon'ble MR. BAKER said:—"I considered this yesterday with the Hon'ble Member and the Secretary. We came to the conclusion that this was the best arrangement, and I therefore recommend that the Council accept the amendments as now put."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I suppose, Sir, it is merely a question of verbal arrangement."

The Hon'ble MR. BAKER:—"Entirely."

The motions were severally put and agreed to.

SECTION 39.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or employment" in lines 3 and 4 of clause (*f*) of section 31 (*now* 39) be omitted.

He said:—"Section 31 (*now* 39) lays down the conditions disqualifying persons from being elected or appointed as Municipal Commissioners. Clause (*f*) says that a person is disqualified if he has directly or indirectly, by himself or by his partner or employer, any share or interest in any contract or employment with, by or on behalf of, the Corporation. I move that the words 'or employment' be omitted, and then the clause will read as follows:—

'(*f*) has, directly or indirectly, by himself or by his partner or employer, any share or interest in any contract with, by or on behalf of the Corporation.'

"I must say I cannot understand what is meant by interest in any employment. That seems to me to be a difficulty, and it is a difficulty not only with me, but with several friends whom I have consulted. I think I may mention the name of one of them, whom the Hon'ble Member in charge of the Bill knows very well, *viz.*, Babu Kali Nath Mitter; this amendment was in fact suggested by him. I had an opportunity of talking the matter over with him, and he did not understand what was meant by interest in any employment. I beg to move as an amendment that the words 'or employment' be omitted."

[*Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"I have given some consideration to this amendment, and I am sorry I have not had an opportunity of discussing it with the Hon'ble Member, because it seems to me that the effect of it might be rather unfortunate. I will give him an illustration, in order to make my meaning clear. Take the case of the well-known firm of solicitors, Sanderson and Company. Sanderson and Company are the standing Solicitors to the Corporation, and are in their employment. The effect of striking out these words 'or employment' would be that a partner in the firm of Sanderson and Company or one of their salaried assistants would be eligible to hold the office of Commissioner. There is no other provision in the Bill that I can find which would prevent them from being so. Now, Sir, it seems to me doubtful whether it is desirable that a member of a firm or an assistant in a firm which is in the employment of the Corporation should be eligible to be a Commissioner. I think the Hon'ble Member will probably agree with that view. If so, I think, he will be willing to withdraw this amendment. I have no other objection than that. I might mention that the words occur in the Bombay Act."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I certainly do not wish that any gentleman connected with any firm which does work for the Corporation should be a member of the Corporation. I do not think it is desirable, and I certainly would not suggest anything the effect of which would be to introduce such persons as members of the Corporation. But it strikes me, even after the explanation that has been given, as being doubtful if these words cover the case. Of course it is a matter of drafting, and I am not an expert. But even after the explanation which my hon'ble friend has given, with the spirit of which I am in complete accord, it does not seem to me that the wording is as clear as it ought to be."

The Hon'ble MR. BAKER:—"Might I explain further, Sir, that a member of the firm of Sanderson and Company, taking them as an illustration, would unquestionably, being interested in an employment under the Corporation, be excluded from being a member of the Corporation, if these words are allowed to remain. There is no other provision in the Bill under which he would be excluded."

The Hon'ble BABU SURENDRANATH BANERJEE:—"Suppose, Sir, a barrister is a member of the Corporation, would he be excluded from employment

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Handley; Dr. Asutosh Mukhopadhyaya.*]

by the Corporation? Suppose the Advocate-General, or a barrister of equal eminence—Mr. Pugh, say—was a member of the Corporation, and it became necessary to employ him in connexion with the work of the Corporation, would he be disqualified, if he took up that work?"

The Hon'ble MR. BAKER:—"If he were employed on a standing salary, I think he probably would be; but if he only took up a single case, I understand that, as a matter of law, he is not disqualified. The same question has arisen in connexion with mufassal municipalities. The learned Legal Remembrancer will probably be able to state what the result was."

The Hon'ble MR. HANDLEY:—Yes; you have stated it correctly."

The Hon'ble BABU SURENDRANATH BANERJEE:—"After that explanation I will withdraw the amendment."

The amendment was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 31 (*now* 39), clause (*f*) and proviso, after the word "employer" be added "or any employé or relation".

He said:—"The object of this amendment is to bring this section into harmony with section 28C (*now* 27), where a similar amendment has been made."

The Hon'ble MR. BAKER said:—"I strongly object to the insertion of the words 'or relation'. It would absolutely disqualify any man who has any relation employed in the Corporation from being a Commissioner."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Who is a relation? Can anybody define the term? I do not believe the word 'relation' is capable of definition. I am entirely in sympathy with the Hon'ble Member in charge of the Bill."

The Hon'ble MR. BAKER:—"I accept the words 'or any employé'."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA then proposed the omission of the words "or relation" from his amendment.

The motion was then put in the amended form and agreed to.

[*Mr. Apcar; Mr. Baker.*]

The Hon'ble MR. APCAR moved that clause (*iv*) of section 31 (*now* 39) be omitted.

He said:—"Sir, I have placed this amendment on the paper after having given very considerable attention to the subject, and I think that the only effectual way of meeting the difficulty that is involved in the question is to place all those who may have a share in any incorporated company contracting with the Corporation on precisely the same footing as the members of a private firm. I desire, in fact, to place all those who have shares in incorporated companies exactly on the same footing as is provided for persons who are included under clause (vi) of sub-section (*1*) of this section. Clause (vi) is for the purpose of declaring persons disqualified from being Commissioners."

The Hon'ble MR. BAKER:—"There is no clause (vi)."

The Hon'ble MR. APCAR:—"I beg your pardon; clause (*f*), I mean. It reads:—

(Any person who) 'has, directly or indirectly, by himself or by his partner or employer, any share or interest in any contract or employment with, by or on behalf of, the Corporation.'

"Any such person is disqualified from being a Commissioner. The clause the omission of which I now move runs as follows:—

(A person shall not be disqualified only by reason of his having a share or interest in) 'any incorporated company which contracts with, or is employed by, the Chairman on behalf of the Corporation.'

"Now, Sir, my attention was drawn to this section by the circumstance that in the present day there is a strong tendency to convert private firms into limited liability companies. At present, therefore, a person who may be disqualified to-day from being a Commissioner on the ground of his being a member of a private firm will next year, if his firm has been converted into a limited liability company, be qualified to be a Commissioner, with the sole reservation that he will be disqualified from taking part in any discussion relating to any matter in which he is interested. Well, under these circumstances, the mischief is very great, because we do not know who may be shareholders in these companies, and, therefore, we should have persons who are interested in any particular question perhaps taking part in the discussion of it—interested pecuniarily

perhaps—so that they would not be able to come to the consideration of the question free from all influence. I do not know how we are able to defend ourselves under the circumstances. The day after I had sent these amendments on the paper to the Secretary of the Council, we had an instance which brings the point out very clearly. Perfectly innocently, without knowledge of the law as it stands in the present Act, and as it is laid down in the Bill; taking it, I repeat, as being perfectly innocently done; nevertheless we had at the last meeting of the Corporation an example of the danger of this section as it is here drafted. We had not merely a shareholder, but a director of a limited liability company, getting up to speak with regard to a contract with that company, involving a large sum of money. Well, Sir, it was not an ordinary person; it was no less a person than the Vice-President of the Chamber of Commerce. When this can occur innocently, and pass at the time without observation, lesser lights of the commercial community may fall into the same error and remain undiscovered. It was by a chance of the most fortuitous character that I was subsequently informed that the speaker on that occasion was one who was interested in that company. Under these circumstances I think that the only method by which we can avoid this mischief is by disqualifying such persons from being Commissioners at all. It is not a new principle, because I only seek to place shareholders in incorporated limited liability companies on the same footing as those who are interested in private firms. A person may be holding a very large share as a member of a private firm and still continue to hold as large a share after the incorporation of that firm into a limited liability company. It is easy to know if a person belonging to a private firm has any interest in any business or contract before the Corporation; but when it comes to a company it is not so easy to know who are the shareholders, particularly if a company is registered in England. So in these circumstances, if we are to give any effect to the principle which underlies this section, it has occurred to me that the only method by which we can really secure that effect is by putting any person, whether a shareholder in a limited company, or one who holds a share in a private firm which does business with the Corporation, on exactly the same footing."

The Hon'ble MR. MACKENZIE said:—"To omit section 31 (*iv*) would be to effectually bar any business man, and I might say any official, from

being a Commissioner; for seeing that there are in Calcutta about five hundred limited companies registered, it is more than probable that in some way or other some of those who would otherwise offer themselves for service would be connected in an indirect way, either as directors or shareholders of these companies, in supplying the wants and requirements of the Municipality, and would therefore be 'interested'.

"With reference to what fell from the Hon'ble Mr. Apcar in his remarks relating to his amendment as to omission of clause (*iv*) of section 31, I crave Your Honour's indulgence, and that of the Council, to enable me to make a personal explanation.

"I am, as Your Honour is no doubt aware, a nominated Commissioner—nominated by the Bengal Chamber of Commerce, of which body I have the honour of being Vice-President.

"At the time of my nomination I was pressed by the Committee to stand, it being considered that under the now Bill it would be incumbent on the mercantile community to have a strong representation, and I accepted on the express condition (which is embodied in the minutes of the Chamber) that I would not serve under the present Act.

"I was appointed a Commissioner in April and never attended a meeting of Commissioners until Wednesday last, the 6th instant. My attendance on that date was due to the receipt by me the previous evening (5th instant) of the following letter from Mr. Bright, the Chairman:—

'Owing to 28 of the Ward Commissioners having resigned their office as Municipal Commissioners, it is very important that the nominated Commissioners and those appointed by the Chamber of Commerce, by the Port Commissioners, and by the Trades Association, should make a point of attending the general meetings of the Commissioners and the meetings of the Committees of which they may be members.

'Yesterday afternoon a meeting of the Water-supply Committee was convened, but out of nine members only two were present, and it is evident that if members do not attend the meetings, and there is a succession of "No quorum," public business will be at a standstill. I trust, therefore, that you will make a special effort to attend.'

"Having no desire to see 'public business at a standstill,' I attended the meeting. On the *agenda* of business were the following items:—

to confirm generally the proceedings of the 16th meeting of the General Committee held on the 25th July, 1899 (pages 191-96) (copy herewith);

[*Mr. Mackenzie.*]

to confirm the following Resolutions of the 18th meeting of the General Committee held on the 4th August, 1899:—

that Messrs. Burn and Company be informed that the Corporation (page 207, paragraph 2) decline to admit their claim to the payment of Rs. 28,890-3 on account of the loss sustained by them by the cutting of the bund across Tolly's Nala by the Port Commissioners.

"And regarding these the Chairman, on page 192, made the following remarks. He stated that—

'the Government gave sanction to bund the nala for a certain time for the purpose of syphoning the nala in connection with the sewerage works in the added area; the work was commenced under a contract to complete it within the sanctioned time, but during that period the Vice-Chairman of the Port Commissioners found that, the water of the nala having been embanked was not flowing into the Docks, and unless the bund was cut there was every chance of the vessels in the Docks being stranded. He, therefore, asked the Chief Engineer to the Government to order the bund to be cut. The Chairman went to the office and protested, but was told that it was extremely urgent and that nothing else could be done. Then Messrs. Burn and Company pressed for the damages they had sustained, and they were referred to the Government and the Port Commissioners; and now after a year the Government said they were not liable to pay damages.'

"On the first item being called on I spoke as follows:—

'With regard to item No. 2 and item No. 6 on the *agenda*, I regret I cannot see my way to voting in support of the resolution now proposed; for, with all due deference to the opinion of the learned counsel that is referred to in the proceedings in question, I feel strongly that the attitude proposed to be taken by the Commissioners is not one they should assume towards Messrs. Burn and Company. There can be, I consider, no doubt that, when Messrs. Burn and Company entered into this contract, they did so in the full faith and reliance on the Commissioners doing all they could do assist them in the performance of their contract, and that they were entitled to conclude that, when the Commissioners undertook to obtain the sanction of the Government to the canal being bunded, they could look upon that undertaking as an assurance that the canal would be closed, and kept closed, until they had completed the work they had contracted to do. Messrs. Burn and Company are, I consider, entitled to better treatment at the hands of the Commissioners than a mere denial of liability. I consider that under the circumstances they are fairly entitled to all the support the Commissioners can give them. The Government gave the sanction to the Commissioners to have the canal bunded for the purpose of having the work comprised in Messrs. Burn and Company's contract carried out, and then the Government, before the work could be completed, accord their sanction to the Port Commissioners to break the bund. Apart from any question of the Commissioners being liable to Messrs. Burn and Company direct, I am inclined to think that Government are, in

common fairness, liable to some one—be it the Commissioners or them (Burn and Company)—for the result of their action with regard to this canal, and I should therefore suggest that, instead of carrying out the resolution minuted on these proceedings, the Commissioners should again approach Government on the subject with the view of getting some fair adjustment made of Messrs. Burn and Company's very reasonable and proper claim.'

"On the 7th instant I received from the Secretary to the Corporation the following letter:—

'I am directed by the Chairman to forward the enclosed copy of a letter from the Hon'ble Mr. J. G. Apcar, with a request that you will be good enough to state whether the hon'ble gentleman's information as stated in his letter is correct. Section 32 of the Municipal Act deals with the question of when a Commissioner cannot vote or take any part in the proceedings of a meeting.'

"The enclosure is as follows:—

'I have the honour to bring to your notice, with reference to the advocacy by the Hon'ble Mr. D. F. Mackenzie of the claim of Messrs. Burn and Company, Limited, against the Corporation, that Mr. Mackenzie is a *Director* of that Company—a fact which he did not disclose in his written speech by which he supported his contention; and I leave it to you to bring the matter to the notice of the General Committee without any delay, if you find that my information is correct.'

"I would invite Your Honour's attention to the term 'advocacy' made use of by the Hon'ble Member.

"To this I replied on the 8th instant as follows:—

"I have the honour to acknowledge receipt of your letter No. 4223 of 7th instant, forwarding copy of one from the Hon'ble Mr. J. G. Apcar with a request that I will state whether the hon'ble gentleman's information as stated in his letter is correct. That I am a Director of Burn and Company, Limited, is quite correct. At the same time, although a Director of Burn and Company, Limited, as a reference to my remarks will show, I spoke as a representative of the interests of the rate-payers; and, so far from asking that the money should be paid, I merely moved that, in order to avoid, if possible, the expenses of a law suit, the matter should be again referred to Government, who, in my opinion, are the proper persons to pay.

'I may mention that, when I was being pressed to frame the exact wording of my amendment, it was suggested to me by a fellow-Commissioner that I should move "that the money be paid," but this I declined to do.

'If under the circumstances the Commissioners consider my action improper, I can only express my extreme regret, and ask that the Chairman will consider any action taken by me at the meeting in connection with the subject as withdrawn and cancelled. I was

not acquainted with the provisions of section 32 of the Municipal Act quoted by you, and no one drew my attention to them.'

"I may mention, Sir, that my action, so far from being that of a delegate from Burn and Company, was entirely spontaneous, and prompted entirely by the statement of the Chairman which I have quoted. The matter has never yet been before us as Director of Burn and Company, Limited.

"This, then, Sir, is the plain, unvarnished account of the incident referred to by the Hon'ble Member.

That I erred in ignorance of the law I frankly admit; that the interests of the rate-payers were in the slightest degree imperilled by my action I absolutely deny; and I consider that it would have been more in keeping with the principles of honour among gentlemen, if the Hon'ble Member himself, if he were at the time aware of the fact of my being a Director of Burn and Company, Limited, and, if not, other Commissioners present at the meeting who I know were aware of the fact, and who are no doubt better acquainted with the law governing the procedure in such matters, had there and then challenged my action, instead of adopting the tactics they have. That the Hon'ble Member was aware of the existence of my letter of 8th instant to the Secretary before he made his remarks to-day and before he submitted his amendment is, to my knowlege, a fact.

"I thank you, Sir, for the opportunity afforded me of making this explanation, and I leave it to you and the Council to decide whether my action in the matter is deserving of the insinuations made."

The Hon'ble MR. OLDHAM said:—"I trust I shall not give offence, not excessive offence at all events, to the Hon'ble Mr. Apcar if I congratulate him on the extreme moderation with which he has referred to this incident. Bearing that in mind, I must say that I rather regret the closing words of the explanation which has been given by the Hon'ble Member who has just sat down. But, Sir, the incident was even more ludicrous than the description of it that has been given in the speeches of my two hon'ble friends would make it appear to the Council. And in this I would even correct my hon'ble friend Mr. Mackenzie in his description of it, for he really made no motion. He stood up and read out what I understood was a general protest, or a sort of personal statement, against the line proposed to be taken. I myself was not in the least aware

[*Mr. Oldham; Mr. Baker; Mr. Apcar.*]

that he was connected with Burn and Company at the time I replied. I did not understand that a motion had been made, and I proposed as a substantive motion that the proceedings of the General Committee should be confirmed. My hon'ble friend Mr. Apcar was in exactly the same position. I believe I am right when I say he is our chief authority in the Corporation on points of order, and he pointed out that there had been no motion in my hon'ble friend's speech. Finally, the Chairman, in his desire to befriend a new member, fished out and formulated for Mr. Mackenzie a motion from his speech, and he was carried away by the exertions of his own friends in the vortex, and broke the law. Otherwise, he would not have done so, I think. At all events, the incident was so absolutely ludicrous and so trivial that I do not think any amendment of the law could possibly be based upon it."

The Hon'ble MR. BAKER said:—"I wish to say just one word with reference to the substantive amendment which has been moved by the Hon'ble Mr. Apcar. I need not say more than two or three words, because the opening words of the Hon'ble Mr. Mackenzie's speech showed that the effect of the amendment, if it were adopted, would be to disqualify every person who holds shares in any Incorporated Company with which the Corporation has dealings. It is one of the objects of this Bill to introduce a larger proportion of the business element into the Corporation, and it seems to me inconsistent with that object that we should strike out of the law a provision which would enable business men to sit on the Municipal Board. Every gentleman who holds shares in Jessop and Company, Burn and Company, or John King and Company, or in any of the numerous Coal Companies, would be disqualified under the operation of this amendment from sitting on the Municipal Board. I think, Sir, that is quite sufficient to show that the amendment is an impossible one. The Hon'ble Member made no allusion to the proviso to the section. The proviso to the section lays down that no Commissioner who has a share or interest in any matter shall vote or take part in any proceeding relating to that matter."

The Hon'ble MR. APCAR:—"I think the Hon'ble Member is mistaken there. Perhaps he did not hear, but I laid stress on the circumstance that the Commissioner was not allowed to speak or vote. The existing law will be unaltered by the Bill."

The Hon'ble MR. BAKER:—"I apologise, but the effect of the proviso is to disqualify any Commissioner who is a shareholder in the manner I have described from taking any part in proceedings relating to the affairs of the Company of which he is a shareholder or from voting in such proceedings. That rule, if strictly carried out, is quite sufficient to protect the interests of the Corporation in all respects. I am not going to refer to the incident which Mr. Apcar made the justification for his amendment beyond saying that the Hon'ble Member (Mr. Mackenzie) was admittedly a new member of the Corporation, and that he was unaware of the existence of this rule, and it was not brought to his notice at the time by any other Commissioner or by the Chairman. If that rule is enforced in the future, as I have no doubt it will be, there will be none of the risks to which the hon'ble mover of the amendment has alluded."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I desire for one moment, Sir, to refer to the personal explanation which my hon'ble friend has given. Sir, the conduct of the Hon'ble Member has been challenged in several newspapers, and I think it is as well that Your Honour has permitted him to enter into that full explanation of his personal conduct which he has made here to-day. Sir, having listened carefully and attentively to that explanation, I am bound to say that it completely absolves him from any blame whatever in the part he took. He was a new member of the Corporation. He did not know the rules, but thought he was entitled to make a motion or to speak in support of a particular matter in which he happened to be interested. The mistake he committed was not brought to his notice, and in these circumstances I do not think it can be said that he did something which ought to expose him to public blame or censure. The explanation is satisfactory, and I am certain that the public will regard it as satisfactory. However that may be, I think that, with a view to guard against the possibility of mistakes of this kind occurring in the future, it is necessary to amend the law on the lines suggested by my hon'ble friend. The most important objection which has been brought forward by the Hon'ble Momber in charge of the Bill is that if this amendment is accepted a large number of business men will be excluded from taking part in the municipal affairs of the town, a result which the Government would deplore, and which the Indian public would also deplore, because in our view the Corporation is the Corporation not only of the Indian

[*Babu Surendranath Banerjee; Mr. Mackenzie; Dr. Asutosh Mukhopadhyaya; Mr. Apcar.*]

community, but also of the European community, though I do think that the Indian community ought to have a preponderating voice in the Corporation. I should be very sorry indeed, Sir, if my friend's amendment would have that effect, but I do not think it would. My friend has mentioned four or five firms which do business with the Corporation, and has referred to certain coal companies which are in the same situation. I do not know that these coal companies are incorporated companies, with the exception of the Equitable."

The Hon'ble MR. MACKENZIE:—"Almost all of the coal companies are limited companies."

The Hon'ble BABU SURENDRANATH BANERJEE:—"With the exception of the coal companies and the firms to which my friend has referred, the gentlemen connected with other firms would not be excluded from being members of the Corporation, and it strikes me that it is desirable that perfectly independent men should be associated with the Corporation in the responsible work of the Corporation. It is a move in the right direction. The object of my friend's amendment is the absolute elimination of all personal interest in the deliberations of the Corporation. Nobody having any personal interest, or even the semblance of personal interest, in the Corporation ought to be a member. I think Your Honour's Government must agree to accept an amendment which proposes to raise to a higher level the purity of the Corporation. I strongly support this amendment, and I cannot think it is one which it is undesirable for the Council to accept."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Looking into the English Municipal Corporations Act of 1882, 45 & 46 Vict., cap. 50, section 12, I find that section 31 (*now* 39) of the present Bill as drafted practically reproduces the provisions of the former section as limited by section 22, clause (*3*). I think it would be an advantage to know, if any Member of this Council is in a position to give us the information, whether these provisions have worked well in London, and, if they have worked well, whether there is any reason why we should have a different law here."

The Hon'ble MR. APCAR, in reply, said:—"With regard to the grounds on which my amendment is objected to, I think if we are to have only persons discussing questions in the Corporation who are disinterested, it would be advisable

to have this particular clause, for which I seek elimination, omitted, because I do not think it is advisable that parties who are personally interested in a pecuniary way should speak or vote on these questions. I gave what I mentioned as an illustration of how it may be possible for what I consider to be the mischief in retaining this clause, to happen. I stated facts and nothing more, but unfortunately that statement of fact, although not denied, has been taken as a personal attack upon an individual. I for my part am not so much concerned whether there is a law bearing on the point or not, but if we find one in the position of the Hon'ble Member voluntarily taking part in these discussions without disclosing his connection with the business, the danger is great that we may have discussions in the future of the same character in which the persons who are interested will also take part. I, on my part, here disclaim any idea of fixing any motive in the sense that it was with the knowledge of what the law was that the law was being broken. I said here is an illustration where innocently the law may be contravened, and it is on that ground I put my contention so strongly, because persons may so easily contravene the law without being conscious that there is such a law. I am sorry that there should have been such a long discussion in regard to what happened at the Corporation meeting. I avoided any such description as has been given. I am glad of the opportunity to say that, so far from taking offence from what was said by the Hon'ble Mr. Oldham, I would rather thank him for his reference to what happened, when the reference is made in the spirit in which it has been made. So far as I am concerned, I certainly am not open to the charge of having kept back any knowledge that I might have had at the time. I must take it that the Hon'ble Member, having come prepared with a written speech, has omitted to alter a statement that was already prepared, to meet my statement that my present amendment was sent in before the meeting of the Corporation where the incident I have referred to occurred, and that I had no idea of the Hon'ble Member's connection with the company until after the meeting of the Corporation. I have not now, nor had I at any time, the slightest suspicion that the Hon'ble Member would take part in the discussion of a matter in which he was interested in the hope that the fact of his interest might not be disclosed. I repeat that at the time I was wholly and absolutely ignorant of the circumstance, and it was by the merest chance that I learned the fact which has led me to quote the instance as an illustration. With regard to what happened

[*Mr. Apcar.*]

at the meeting of the Corporation, I confess that it was extraordinary, and I have myself never seen in any proceedings there anything of the kind occur, because the standing orders and the laws of the Corporation were contravened in a greater degree, at that one meeting, than I remember as having happened in a whole year's proceedings. When it is made such a point of that I wrote that there had been 'advocacy' of the claim of Burn and Company, why, the speech that the Hon'ble Member has read out has indicated how it was that I was led to make use of such a term. It has been mentioned and relied upon by the Hon'ble Member here that he desired that Burn and Company, 'Limited', should be 'admitted to better treatment,' and that the Company were 'entitled to all the support' that could be given to them. And when it came to the point that an amendment had to be formulated, why the first amendment that was put forward by the Hon'ble Member was, as the Hon'ble Mr. Oldham will remember, to the effect that the resolution of the General Committee that the Corporation declined to admit the claim of Burn and Company, should not be confirmed. That was the original amendment, and it was not put in the form that it was cast, as the Hon'ble Mr. Oldham will remember, because I pointed out that it only negatived the resolution of the General Committee, and, therefore, was not an amendment at all. I think I am right, therefore, so far as I am concerned, in having said that the Hon'ble Member was supporting the claim of the company. I have no wish or desire to make any personal attack or to go any further into this incident. I have put what I had to put only on general grounds; and this particular amendment was drawn long before the incident occurred, and was sent in to the Secretary to the Council before the meeting of the Corporation, so that it cannot be suggested that it was in consequence of anything that happened there that I have brought forward my amendment. I have merely quoted what happened as strong support to my contention in this particular question. I have proceeded on the basis that the Hon'ble Member erred in innocence. He was a new member in the sense that he had never attended a meeting before, and he had not made himself acquainted with the standing orders. Now, Sir, my whole argument has proceeded on the footing that I say honourable men may make a mistake on such a point. That is the danger, and on that very ground—it is one of my strongest grounds—I maintain that the omission of this clause is necessary. I gave the illustration, because, when I can quote an actual example which has really happened, it has

much greater weight than if I spoke in general and vague terms. My point is that whatever occurred was done in ignorance of the law. But the fact remains that there was interest on the part of a member of the Corporation in the question under discussion. That fact, however, did not deter him from intervening in the discussion. Those were the grounds of my argument, and I confess that I cannot think it right that now, when we have so many private firms converting themselves into limited liability companies, the members of those firms when their liability was unlimited should be disqualified for membership of the Corporation, and the very same men, when their liability becomes limited, should be eligible for membership. I cannot myself recognise that they become qualified any more than they were before because their liabilities have become limited."

The motion was then put and lost.

SECTION 41.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 33 (*now* 41), line 9, for the words "the Chief Judge of the Court of Small Causes of Calcutta" be substituted "a Judge of the High Court exercising original jurisdiction."

He said:—This question, Sir, is one of some importance; and, although I have had an opportunity of talking it over with the Hon'ble the Legal Remembrancer, I regret to say that my difficulties have not been removed, and I am obliged to press the matter before the Council. The question is one of law, but I undertake, if Hon'ble Members will follow the discussion, to make it intelligible even to lay minds. Section 31 (*now* 39) specifies the circumstances which disqualify a person for being a Commissioner, that is to say, for being elected or appointed, as well as for continuing, a Commissioner. One of the circumstances so specified in clause (*f*) is the acquisition of an interest in any contract or employment with the Corporation. Section 32 (*now* 40) then proceeds to lay down that a person so disqualified ceases to be a Commissioner, and section 33 (*now* 41) follows with a provision regarding the Court which is to decide such question of disqualification. The section then relates to a case in which a question of disqualification is raised when a person has been appointed and continues to hold office as a Commissioner. Now, let us turn to section 50 (*now* 56). That deals with a case in which, among other things, a similar objection may be taken

just at the time of appointment or election of a Commissioner. You will remember that the same set of circumstances which disqualify a man from being elected also disqualify him from continuing to be a Commissioner. Now, section 50 (*now* 56) deals with a case at the time of election, and provides that, in a case of disputed validity, the trial is to be by the High Court. It is manifest, therefore, that if, as soon as a person is returned a Commissioner, somebody comes forward and says that he cannot be returned for the reason that he has an interest in some contracts with the Corporation, the matter has to be fought out before a Judge of the High Court exercising original jurisdiction. If, on the other hand, a man is appointed a Commissioner, and subsequently, say a month afterwards, he places himself in such a position that he has interest in some contract with the Corporation, then, under section 33 (*now* 41), the application has to be made to the Chief Judge of the Court of Small Causes. Now, I really cannot see the distinction between the two cases. The object of both the proceedings is to unseat the Commissioner. The object of the proceeding under section 50 (*now* 56) is to unseat a man who has been elected but has not yet entered into office. The object of the proceeding under section 33 (*now* 41) is to unseat a man who has been elected a Commissioner and has been holding office as such. I venture to think that it would be reasonable to place the two on the same footing. The disqualification of a person as a Commissioner, whether such objection is taken at the time of election or subsequently, is a serious matter, and, if cases of the one class are tried by a Judge of the High Court exercising original jurisdiction, I fail to see why cases of the other class should not also be so tried. This is my first reason, but there is a stronger reason. By section 33 (*now* 41) you confer jurisdiction upon the Chief Judge of the Court of Small Causes of Calcutta, but you cannot take away the jurisdiction the High Court possesses under the charter. My hon'ble friend to my left will bear me out when I say that, if section 33 (*now* 41) had not been in the Act at all, it would have been quite open to any person to make an application to a Judge of the High Court exercising original jurisdiction, asking him to deal with such a matter as this upon proceedings in the nature of a *quo warranto.* Simply because you put in section 33 (*now* 41) here, you cannot take away the jurisdiction which is vested in the High Court under its charter. I say, therefore, that section 33 (*now* 41) is unnecessary. It will only give a Judge of the Court of Small Causes a co-ordinate jurisdiction, but it will still be possible for any person to make an application to the High Court."

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Boikanta Nath Sen.*]

The Hon'ble MR. BAKER:—"I might mention to the Hon'ble Member that there is a section in the Bombay Act,* section 33, which gives jurisdiction to the Chief Judge of the Bombay Small Cause Court."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA continued:—"I am very much obliged to my hon'ble friend for the reference, because it materially strengthens my argument. In Bombay they are consistent. In Bombay they authorise the Chief Judge of the Small Cause Court to decide both classes of cases. I say that in section 50 (*now* 56) you provide that the matters specified therein are to be disposed of by a Judge of the High Court exercising original jurisdiction; you should lay down the same rule in the case of section 33 (*now* 41). There is no reason why the two should be placed on different footings.

"Then in the third place I desire to point out that this is just one of those cases which are taken out of the jurisdiction of the Court of Small Causes by the Act relating to that Court. If you turn to the Presidency Small Cause Courts Act,† section 19, clause (*i*), you will find that the Small Cause Court has no jurisdiction over suits to obtain an injunction, and if the Act which created the Small Cause Court says that the Small Cause Court shall have no jurisdiction in certain things it is not desirable, I think, that this Council should authorise the Chief Judge of that Court to do those things.

"Fourthly, suppose you authorise the Chief Judge to do these things, there would be no finality. You cannot take away the power which is vested in the High Court—the power of supervising the proceedings of lower Courts. Therefore, although you say that the decision of the Small Cause Court Judge shall be final, the High Court will still be entitled to interfere. On the whole, therefore, it would be more satisfactory if section 33 (*now* 41) and section 50 (*now* 56) were placed on the same footing."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I regret, Sir, that I cannot give support to this amendment which has been proposed by the Hon'ble Member. In the first place, he observes that he does not see any distinction between the provisions of section 33 (*now* 41) and section 50 (*now* 56). Section 33 (*now* 41) contemplates the existence of an occasion for adjudication after one is in office. Section 50 (*now* 56) contemplates a different state of things. It

* Bombay Act III of 1888.

† Act XV of 1882.

[*Babu Boikanta Nath Sen; Mr. Baker; Babu Surendranath Banerjee; Mr. Handley.*]

contemplates a state of things when a person is obtaining a seat in the Corporation. So that there is this distinction. Then I do not think that the Specific Relief Act, which was evidently in the mind of my hon'ble friend, gives to the High Court jurisdiction for trying cases contemplated under section 33 (*now* 41) of this Bill. It can issue a *mandamus* under certain circumstances, but those circumstances are not covered by this section 33 (*now* 41). Reference has also been made to the Presidency Small Cause Courts Act, under which no injunction can be issued. This is not a case of an injunction; it would require an adjudication upon other grounds."

The Hon'ble MR. BAKER said:—"I do not wish to discuss the question as a matter of law at all, Sir, but I should like to explain the circumstances under which there is a difference between section 33 (*now* 41) and section 50 (*now* 56). In the original Bill the reference was to be made in both cases to the Chief Judge of the Small Cause Court; but, when we came to discuss the matter in the Select Committee, the members who represented the Corporation, and who, I may say, were more interested in the matter of elections than any other member of the Committee, considered that the decision of election petitions had better be referred to a Judge of the High Court rather than to the Chief Judge of the Small Cause Court."

The Hon'ble BABU SURENDRANATH BANERJEE:—"That is so."

The Hon'ble MR. BAKER:—"But they both agreed that in the case of Commissioners who had already obtained their seats it was sufficient to follow the Bombay practice, and make the reference to the Judge of the Small Cause Court only. As a matter of expediency, and not at all as a matter of law, it seems to me desirable that the reference should be confined to the Small Cause Court, and that we should not trouble the High Court in matters of this kind unless we are obliged to do so."

The Hon'ble MR. HANDLEY said:—"Mr. President and gentlemen, I only wish to make a few remarks upon this question, which has somewhat of a legal aspect. I do not follow the objection of the Hon'ble Member for the University as to the necessity for bringing the two sections into union. To my mind there is, as the Hon'ble Member in charge of the Bill has already indicated, a

very distinct question of principle between the two sections. As probably most of the Council are aware, in former days election petitions used to be tried by Committees of the House of Commons, and, as that was not satisfactory, the work was transferred to a judicial tribunal—that is, one of the Judges of the Queen's Bench. Similarly, I presume that is the reason why the Hon'ble Member requests that these election petitions should be tried only by a Judge of the High Court who is absolutely independent of the Government of Bengal, or the Government of India, or the Secretary of State, as he holds his commission direct from the Queen herself. And I presume that is the reason why a Judge of the High Court was substituted in section 50 (*now* 56). That is a concession rather beyond what the Bombay Act provides for. As I understand the Bombay Act, the elections are tried by the Chief Judge, who is really an officer under the orders of the Local Government. Therefore, in that respect, the Bill goes beyond what the Bombay Act is, and is a concession beyond what the Hon'ble Member requires. It is exactly as the Hon'ble Babu Boikanta Nath Sen states in one case; it is the purity of elections which is in question, and that has to be decided by a Judge of the High Court. Section 33 (*now* 41) refers only to the disqualifications of a Commissioner when elected. If any one will take the trouble to read the section detailing the disqualifications, surely he will admit that a decision in reference to them will not require abilities of a very high order. They are that the person disqualified—

'(*a*) is of the female sex; or

(*b*) has been sentenced by any Court to transportation, imprisonment or whipping for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government is hereby empowered to make, if it thinks fit, in this behalf; or

(*c*) is an uncertificated bankrupt or an undischarged insolvent; or

(*d*) is the Chairman or Vice-Chairman or Deputy Chairman or a municipal officer or servant or a plumber licensed under this Act; or

(*e*) is a Judge of a Court of Small Causes, or a Municipal Magistrate, or is acting in either of those capacities; or

(*f*) has directly or indirectly, by himself or by his partner or employer, any share or interest in any contract or employment with, by or on behalf of, the Corporation.'

[*Mr. Handley; Babu Surendranath Banerjee.*

"The only clause likely to give rise to much discussion is the last one, with regard to a share or interest in contracts. But, as section 33 (*now* 41) runs, the enquiry will only go on when the Commissioner does not admit the allegation, or when he is himself in doubt about it. If he admits the allegation, the enquiry is at an end at once. It is only if he denies or is in doubt that it proceeds, and I must [illegible] that does not strike me as being a very difficult matter for the Chief Judge [illegible] Small Cause Court to decide upon, and I do not think any better arrangement could be made. I am not quite sure about the force of the legal argument the Hon'ble Member has advanced, because a Judge of the High Court sitting in original jurisdiction has only jurisdiction in the town proper. Suppose one of these cases referred to a Commissioner for a ward outside the town. I do not quite see how the Judge sitting on the Original Side would have jurisdiction to entertain an application in a case like that. It might possibly be done by a reference to a Bench for a *mandamus*, but it is a difficulty I have not yet seen disposed of. In my opinion the principles underlying the two sections can be clearly distinguished: the one where it is a question of purity of elections, which is reserved for the High Court; the other, a simple matter concerning a Commissioner personally, is one which can well be disposed of by the Chief Judge of the Small Cause Court."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am happy to say that in this matter I am entirely in accord with the Hon'ble Member in charge of the Bill. It is, more or less, a lawyer's argument, but, behind the arguments which lawyers bring forward, there are important considerations of expediency. Sir, it is only natural that High Court Pleaders and Advocates should be very anxious to have cases tried by the tribunals before which they practice. But it is not always convenient to suitors to be brought to the High Court, and to go through all the expensive forms of litigation which are incidental to cases being tried by that Court. I think it was that consideration, more than anything else, which determined the Select Committee to accept the section which confers jurisdiction on the Chief Judge of the Small Cause Court. I do not know what the fees in the High Court are, but they are considerable, and a person appearing before that Court has to pay those fees. If he has to go before the Small Cause Court, he pays fees on a lower scale, and, therefore, I think it is a distinct advantage that the tribunal before which he has to appear should be the Small Cause Court. Let me not be misunderstood. I have the

greatest respect for the High Court, and I do not for one moment wish to say anything which might tend to lessen the respect in which the High Court is held as the protector of popular rights and liberties. But all the same I think the Small Cause Court is, in matters of this kind, a better tribunal than the High Court. I have not been altogether content to rely upon my own judgment in regard to this question, and I have had an opportunity of consulting friends on whose judgment I am in the habit of placing reliance in matters connected with the Municipality, and they are distinctly of opinion that the section should remain as it is."

The Hon'ble MR. APCAR said:—"With reference to the appeal rather pointedly made to me by the hon'ble mover of this amendment, I beg to say that I am not here as the legal adviser of the Council, and I am perfectly sure that any legal opinion differing from that given by the Hon'ble Member who represents the legal views of the Government will be treated as superfluous. There is another point also with respect which I have to make a disclaimer, and that is that I was not the representative of the Corporation when this particular section was agreed to in Select Committee. With regard to what has fallen from my hon'ble friend who has just sat down, I think he is a little in error if he thinks that the proceedings of the Small Cause Court will be of a less expensive character than the proceedings of the High Court, because we may take it that any question of this kind which has to go before a legal tribunal will be fought out very seriously, as persons of the standing of the Commissioners of the Corporation would be concerned. As a matter of fact, it would be infinitely better for the advocates of the High Court that the cases should be tried in the Small Cause Court, because, naturally, their fees will be much higher when they go to a tribunal before which they do not ordinarily practise, than in the Courts in which they do ordinarily practise. With regard to procedure, with all deference to those who have spoken, I think that the procedure, if the question is left to the High Court, would be more expeditious, and would be less costly, than if the cases went before the Small Cause Court; because, if I may venture to give an opinion at variance with that of the Hon'ble the Legal Remembrancer, the proceedings, if they came before the High Court, would be heard on affidavits and heard very expeditiously on a motion day, and the whole matter would be decided in a very short time. If the proceedings come before the Small Cause Court, they will take the form of a *vivâ voce* examination of the parties; so that the procedure would altogether be of a

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

different character and would be more prolonged. I had myself intended to notice these sections, but in the crowd of business they escaped my notice."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"Sir, I do not wish in reply to repeat the arguments I have already advanced, but there is one point which I must notice. My hon'ble friend Babu Surendranath Banerjee may have his own reasons for seeking to restrict the jurisdiction of the High Court, but he ought to have known that, if the procedure embodied in section 33 (*now* 41), of the Bill stands, it will be to the benefit of my branch of the profession, because we are shut out from the Original Side of the High Court; therefore, it was from no personal feelings that I brought forward this motion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to disclaim any aspersion of that sort. I did not think my hon'ble friend would take it in the earnest fashion in which he has taken it. It was merely a good-humoured joke, and I think the profession to which he belongs is strong enough to bear a joke of that description."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 33 (*now* 41), the following words be added after the word "and" in the last line, namely:—

"subject to the provisions of section 6 of the Presidency Small Cause Courts, Act, 1882."

He said:—"This is, I believe, what is intended by section 33 (*now* 41), because I have been assured by the Hon'ble Member in charge of the Bill that there is no intention whatever of restricting the powers of revision which the High Court possesse under its charter. Section 6 of the Presidency Small Cause Courts Act simply provides that the High Court can supervise the proceedings of the Small Cause Court under the powers which it possesses under 24 & 25 Vict., cap. 104, section 15, over all Courts of inferior jurisdiction. In other words, the finality which is mentioned in section 33 (*now* 41), is only a qualified finality, that is, finality subject to the supervision of the High Court. If my amendment be adopted, it cannot subsequently be argued that by section 33 (*now* 41), the jurisdiction of the High Court has been ousted or that there was any intention to interfere with the powers the High Court possesses under its charter."

[*Mr. Baker; Babu Jatra Mohan Sen; Babu Surendranath Banerjee; Mr. Handley; Mr. Apcar.*]

The Hon'ble MR. BAKER said:—"It seems to me that the amendment is superfluous if the Hon'ble Member is correct in saying that we cannot interfere with the jurisdiction of the High Court under its charter, and I believe that to be entirely correct. That being so, whether we insert these words or whether we leave them out, the jurisdiction of the High Court remains the same."

The Hon'ble BABU JATRA MOHAN SEN said:—"Sir, if the object of this section is to leave the jurisdiction of the High Court untouched, I should think the matter might be made clear by the insertion of the words moved by the Hon'ble Member who proposed the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Is it competent to this Council to pass any law which will interfere with the powers of the High Court?"

The Hon'ble MR. HANDLEY said:—"I think the Hon'ble Member for the University is quite right in his contention that any settlement in this section must be subject to the general law laid down in section 6 of the Presidency Small Cause Courts Act. But why draw attention to the fact? It will only encourage many people to appeal who might otherwise not be aware of the section in the Presidency Small Cause Courts Act. The intention of this Council is, as far as it can, to make this section final and to discourage appeals as much as possible. If attention is drawn to the fact that it is possible to appeal, is there anybody who knows Bengal who does not believe that advantage will be taken of it? This Council expresses its wish that this should be final; but this addition would stultify the Council's desire expressed for finality. If there is a possibility of getting it revised, no doubt the legal profession will find it out, but I do not see the necessity of drawing attention to means whereby that finality should be set aside."

The Hon'ble MR. APCAR said:—"I am sorry that the Hon'ble the Legal Adviser of the Government thinks it is a right policy to adopt to keep covered up the rights individuals may have. If they have got the right of appeal, I think it is only fair that they should be informed of that fact. I cannot agree

that it is right to pursue a policy which would deliberately keep that important circumstance hidden from persons interested, and to refuse this amendment because it would bring pointedly to their attention that they have the right of appeal."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I am bound to say that the argument which has been advanced against my motion has taken me by surprise. I thought it was our duty to make the provisions of this Act absolutely clear. It has been said that I correctly stated that this Council has no authority to limit the powers of the High Court, and although we expressly say in section 33 (*now* 41), that the decision of the Chief Judge of the Small Cause Court shall be final, we mean only qualified finality. Surely, this is not a very straightforward way of putting things."

The Hon'ble MR. BAKER:—"Does the Hon'ble Member refer to what I said? I said that we had no power to interfere with the jurisdiction of the High Court under its charter."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA continued:—"Not many years ago the question was raised whether the Supreme Council is competent to interfere with the jurisdiction which the High Court possesses under its charter. There was a hopeless difference of opinion among the Judges of the High Court, and on an appeal to the Privy Council the decision of the majority of the Judges was reversed. Therefore, I say, that to prevent any possibility of a similar question being argued as to whether finality under this section is absolute or qualified, the words I have suggested should be put in. If it is the intention of the Council not to interfere with the jurisdiction of the High Court, why not say so plainly?"

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADYAYA also moved that in section 33 (*now* 41), line 11, for the words "making such inquiry as he deems necessary" be substituted the words "taking such evidence as may be adduced before him".

He said:—"Sir, this is really a matter of drafting. I want to have it made clear that the inquiry is to be a judicial one; that it is not to be in the

nature of an executive inquiry, which it would practically be if the Small Cause Court Judge were in a position to say 'I have made sufficient inquiry, and I make an order disqualifying the Commissioner.' My contention is that there should be what is called a judicial inquiry, and that the evidence which may be adduced may be taken in a judicial manner. I have been looking into the corresponding sections of the English Act, and I find elaborate provisions of a similar description."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think there ought distinctly to be a judicial inquiry. I hope my hon'ble friend will not object to this amendment. It is really carrying out the spirit of the section. Being a judicial inquiry, the evidence ought to be recorded in a judicial manner."

The Hon'ble MR. BAKER said:—"There is every intention that the inquiry shall be a judicial inquiry. It seems to me that the words used by the hon'ble mover of the amendment would make the scope of the inquiry narrower than the words which now stand in the section. The words he proposes are—'taking such evidence as may be adduced before him'. On the face of it those words would preclude the Chief Judge from calling for evidence of his own motion. It might be the case that the evidence adduced by the parties before him might be insufficient. Surely it is not the intention to prevent the Judge from calling for such evidence as he may consider necessary."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA:—"That is not my intention. I think the words I propose are wide enough."

The Hon'ble MR. BAKER:—"You say he can only have such evidence as may be adduced before him, which practically means that he cannot call for evidence."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA:—"That is included."

The Hon'ble MR. BAKER then proposed that the words to be substituted should be—

"making such inquiry and taking such evidence as he deems necessary."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA:—"This will, to some extent, meet the object I have in view."

[*Mr. Bolton; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya; Babu Jatra Nath Sen.*]

The Hon'ble MR. BOLTON said:—"I object to any change in the section. The inquiry obviously implies the taking of evidence, if evidence is needed. The amendment, as put by the Hon'ble Member, restricts the Chief Judge to the evidence which may be adduced by the parties. That evidence may be insufficient for the inquiry, or it may be needlessly long and unnecessary, causing much waste of time. The Chief Judge should not be fettered by any provision as to the taking of evidence. I should, for my part, be glad to see the election petitions also made over to the Chief Judge of the Small Cause Court instead of being reserved for an elaborate hearing before a Judge of the High Court exercising original jurisdiction."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Possibly ten years hence election petitions will be taken up by the Small Cause Court, but we have not got to that stage of perfection yet. I cannot advise my hon'ble friend to accept the words now given, because in that case the Judge would be at liberty to shut out evidence. I do not think he ought to be allowed to do that."

The Hon'ble MR. BOLTON:—"My contention is that there should be no restriction at all. Leave it to the Judge to accept or reject evidence. The Judge to whom this power is committed should be trusted."

The Hon'ble BABU SURENDRANATH BANERJEE:—"We trust the Judges certainly, but at the same time we trust them subject to certain conditions, and I think we ought to make the conditions as clear and as stringent as possible. I do not think it is necessary to allow an unlimited power of discretion to Judges, and therefore I consider it would be as well if we legislate so that it should be obligatory upon the Judge to take such evidence as may be adduced. He ought to go thoroughly into the evidence. I would not give him any discretion to act otherwise."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA:—"In spite of what has fallen from my hon'ble friend, I will accept the amended words proposed by the Hon'ble Member in charge, as he is apparently not prepared to make any further concession."

The Hon'ble BABU JATRA MOHAN SEN said:—"I would suggest 'due inquiry'."

[*Mr. Baker; Mr. Handley; Mr. Apcar; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER:—"If the hon'ble mover of the amendment has accepted the amended form I proposed, it will be unnecessary to discuss the matter further."

The Hon'ble MR. HANDLEY said:—"I do not know what reason my hon'ble friends have for supposing that the Chief Judge will not do his obvious duty, that is to say, he will make an inquiry, and, in order to come to a right decision, he will call for such evidence as he may consider necessary. He has to come to a legal decision on a question of law and fact as it may be, and I don't see what possible reason there can be for supposing that he will not do what is his plain and obvious duty. I should think that the amendment accepted by the Hon'ble Member in charge would specify everything that is necessary that is to empower him to make such inquiry and to take such evidence as he may deem necessary."

The Hon'ble MR. APCAR said:—"I conclude that it is intended that whatever matter may come before the Small Cause Court will be tried under the ordinary procedure of that Court. I do not know if it is intended that there should be any difference. That has not been made quite clear to me, because I take it that, if the cases are tried according to the procedure of the Court under the law governing that Court, such evidence will be included as the Judge in his discretion thinks is relevant, and the ordinary procedure will take its course."

The motion was then put in the form proposed by the Hon'ble Mr. Baker, and was agreed to.

SECTION 43.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 34 (*now* 43), sub-section (*4*), for the words "or may distribute them amongst the candidates in such manner as he thinks fit" be substituted "but no voter shall be entitled to vote for more than one candidate".

He said:—"As only one Commissioner is to be returned by each ward, it seems to me that the change proposed is necessary. Suppose there are half a dozen candidates, and a man has ten votes, I do not see the logic of his voting for three of them; only one Commissioner is to be returned; and, if he votes for three, it seems to me that he does not exercise his choice at all. I find on looking into the English Municipal Act that every person entitled to vote may

vote for any number of candidates not exceeding the number of vacancies. I think a provision of the same sort is required here. There is only one person to be returned, and, if a man votes for two or three candidates for the one vacancy, I do not consider that he votes at all. To make the absurdity of the position manifest, you have only to consider the case in which the electorate consists of only one voter."

The Hon'ble MR. BAKER said:—"This is an oversight on the part of the Select Committee. We overlooked the fact that there would no longer be more than one seat for each ward, but instead of putting the amendment quite in the way the Hon'ble Member has proposed, I think it would be simpler if we left out the last two lines, viz., 'or may distribute them among the candidates in such manner as he thinks fit'."

The Hon'ble BABU SURENDRANATH BANERJEE:—"Am I to understand that the effect of this amendment would be to prevent voters from distributing their votes"?

The Hon'ble MR. BAKER:—"Yes, that is it exactly."

The Hon'ble BABU SURENDRANATH BANERJEE:—"Then I strongly object to it. I am most distinctly in favour of the continuance of the present system, although only one candidate is to be returned for each ward. In the first place, it is a question of principle. I do not think it right that any restriction should be placed on the voter as to the way in which he should exercise his power of voting or give away his votes. The voter ought to be left the fullest discretion as to how he will distribute his votes if he has more than one. In the second place, I object to the proposal because it would in many cases mean the return of inferior candidates. Take my own ward, for example, which is a mixed ward consisting of Hindus and Muhammadans. Now, supposing there is an inferior Muhammadan candidate—I am not referring to my colleague, who is an able and a thoroughly respected man—but suppose he retires, and an inferior Muhammadan candidate, who does not enjoy the confidence of the electors, comes forward. Now, Sir, in such a case the procedure many a voter will adopt would be somewhat as follows. He will give one or two votes to his co-religionist, not because he wants him to be returned, but because he belongs to the same faith, and he will [illegible] the

balance of the votes to the superior candidate. If this amendment be accepted, he will not be able to do this. Suppose there are two candidates, as there would be in my ward, myself being one, and a Muhammadan gentleman—not my colleague at the present moment—being the other. There is a large number of Muhammadan voters, and they will feel it their duty to give one vote to their co-religionist, and if you compel them to confine their votes to only one candidate, the other will not get any votes at all, though he may be the superior candidate. The same thing might be repeated in other wards, and I think, Sir, in a matter like this we ought not to be guided by abstract principles, but rather proceed upon the basis of actual experience. This is the point which I desire to submit for the consideration of my hon'ble friend in charge of the Bill, and I should like to know how he proposes to deal with it. Cases of this kind will occur, and in a number of wards having a mixed population, such as wards 9, 13, 14 and others, serious difficulties will arise, and you will not get the best candidates. The course proposed by the Hon'ble Member would, I admit, be perfectly logical, but we are not governed by logic, but rather by common-sense. Leaving, therefore, the barren ground of logic, I take my stand on the fertile soil of common-sense and past experience. Here we have experience, and I ask Hon'ble Members whether they have had the experience in these electioneering contests that I have had. I have passed through eight contests, and I can say positively that the certain result of this proposal would be that, in the mixed wards I have referred to, you would create difficulties in the way of the return of the better candidates. Is that a difficulty which the Government wants to create? I feel sure it does not."

The Hon'ble MR. BAKER:—"It certainly had never struck me until the Hon'ble Member mentioned it that any elector would be so irrational as to give part of his votes to his co-religionist as a matter of duty or a matter of sentiment."

The Hon'ble BABU SURENDRANATH BANERJEE:—"They do it systematically."

The Hon'ble MR. BAKER:—"The Hon'ble Member is perfectly right in saying that he has greater experience of elections than probably any other member of this Council; and, if he assures us that that will be the actual result, I should greatly hesitate before asking the Council to accept any proposal which

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Bolton; Babu Boikanta Nath Sen; Mr. Apcar.*]

will have that result. If he assures us that it will have the effect of keeping out good candidates, I would recommend that the Council should not accept the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE:—"It would be so. I would not make such a statement in Council unless I felt that it would be so."

The Hon'ble MR. BOLTON said:—"I entirely agree with the Hon'ble Babu Surendranath Banerjee. I understand that section 34 (*now* 43), as now drafted, is the existing law, which provides that a voter may distribute his votes among the candidates as he thinks fit. The principle of distribution of votes exists in elections under the Regulations for this Council. It has happened that a District Board or Municipality which has several votes commissions its representative to give one vote to one candidate, two to another, and so on. If that prevails in Council elections, I see no reason why it should not also be the rule in the municipal elections. Votes may also be distributed in the Parliamentary elections at home. The Hon'ble Babu Surendranath Banerjee has well illustrated the utility of the present system in Calcutta, and no necessity for a change has been advanced."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I beg to say that in the mufassal municipalities they have a power of distribution, and I feel that practical difficulties would arise if voters were enjoined to give one cumulative vote and were to be deprived of the right of distribution. The difficulties which would follow any legislation of that description would be very much greater than any which could arise if the section be allowed to remain as it is."

The Hon'ble MR. APCAR said:—"Mr. President, I support my hon'ble friend, not because of any ground on which he has put his contention, but on grounds of my own. Supposing there are three candidates, whether they are Hindus, Muhammadans, or whoever they may be, only one can get in. I wish A to be returned, but I may prefer B to C, and I may wish therefore, while giving a majority of my votes to A, to give some to B, in order that he may have a better chance than C. That is the reason why I think it is advisable that there should be this distribution."

The motion was then put and lost.

[*The President; Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble THE PRESIDENT ruled the following motion, standing in the name of the Hon'ble Mr. Apcar, to be out of order:—

that to section 34 (*now* 43), sub-section (*5*), the following be added, that is to say:—

"Provided that the electors of Wards 1, 3, 4, 6, 8, 9 and 22 may each elect two Commissioners."

SECTION 46.

The Hon'ble MR. APCAR, by leave of the Council, withdrew the following motion, standing in his name,—

that in sub-section (*2*) of section 37 (*now* 46), for the figures "600, 1,000, 1,500, 2,000, 2,500, 3,000, 3,500, 4,000, 4,500 and 5,000," the figures "1,000, 2,000, 3,000, 4,000, 5,000, 6,000, 7,000, 8,000, 9,000, 10,000," respectively, be substituted.

SECTION 47.

The Hon'ble MR. APCAR also, by leave of the Council, withdrew the following motion, standing in his name,—

that in sub-section (*2*) of section 37 (*now* 47), for the figures "600, 1,000, 1,500, 2,000, 2,500, 3,000, 3,500, 4,000, 4,500 and 5,000," the figures "1,000, 2,000, 3,000, 4,000, 5,000, 6,000, 7,000, 8,000, 9,000, 10,000," respectively, be substituted.

SECTION 52.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 42A (*now* 52), for the word "Government" be substituted "Secretary of State for India in Council, the Government of India, or the Local Government as owner and occupier of any house or land".

He said:—"This amendment was put in for the purpose of enabling me to make an inquiry. I find that section 42A (*now* 52) corresponds to section 26 of the existing law, and I have not been able to make out why the phraseology has been altered. The existing section provides—

'No vote shall be given by the Secretary of State for India in Council, the Government of India or the Local Government as owner or occupier of any house or land.'

"If there is no valid reason for making a change, I would suggest that the existing language may be retained."

The Hon'ble MR. BAKER said:—"The reason for the change is that, since the Act of 1888 was passed, the Bengal General Clauses Act of 1899 has come into force. Under the General Clauses Act, the expression 'Government'

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

includes both the Government of India and the Local Government, so that those two out of the three functionaries mentioned in this amendment are covered already by the word used in the section. The Secretary of State for India in Council is not covered, but it is not conceivable how the Secretary of State for India in Council could give a vote, except through the Local Government or the Government of India. Therefore, I think this amendment is unnecessary."

The amendment was then, by leave of the Council, withdrawn.

SECTION 58.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion for the amendment of section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)] having been lost, he, by leave of the Council, withdrew the following two motions standing in his name:—

(1) that in section 52A (*now* 58), sub-section (*1*), line 3, the word "and" be omitted; that in line 4, after "Calcutta" the words "and the Senate of the University of Calcutta" be added; and that in lines 6 and 9, after the word "Commissioners" the words "or the Senate" be added;

(2) that in section 52A (*now* 58), sub-section (*2*), line 2, after the word "Commissioners" the words "and the Registrar of the University, respectively," be added.

The Hon'ble BABU JATRA MOHAN SEN'S motion for the amendment of section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)] having been lost, he: by leave of the Council, withdrew the following motions standing in his name,—

(1) that sub-section (*1*) of section 52A (*now* 58) be altered to run thus:—

"Appointments of Commissioners by the Bengal Chamber of Commerce, the Calcutta Trades Association, the Bengal National Chamber of Commerce, the Central National Muhammadan Association, the Muhammadan Literary Society, the University of Calcutta and the Commissioners for the Port of Calcutta shall be made according to rules framed under section 7 [*now* section 8], sub-section (*3*)?";

(2) that sub-section (*2*) of section 52A (*now* 58) be omitted.

SECTION 61.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following section be added:—

"The Corporation may, if they think fit, but only after due inquiry, in which the Commissioner concerned shall have the right to be heard, remove any Commissioner elected

or appointed under this Act, if such Commissioner has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct."

He said:—"With the permission of the Hon'ble Member in charge of the Bill, I would like to make a slight alteration in the amendment. I should like to say insert the words: 'The Corporation with the sanction of the Local Government,' or 'The Local Government at the instance of the Corporation'."

The Hon'ble MR. BAKER said:—"I have no objection to the words 'The Local Government may, if it thinks fit, on the recommendation of the Corporation made after due inquiry' being used."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I will accept those words. The section will then read—

'The Local Government may, if it thinks fit, on the recommendation of the Corporation, made after due inquiry,' &c.

"I find that this was really an omission in the Calcutta Municipal Act, because a section of that kind has been the law in the mufassal municipalities ever since we have had mufassal municipalities. I will read out to the Council section 19 of the Bengal Municipal Act,* upon which this section is practically based. Section 19 is as follows:—

'The Local Government may, if it thinks fit, on the recommendation of the Commissioners at a meeting, remove any Commissioner appointed or elected under this Act if such Commissioner shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.'

"I do not know that it is necessary for me to say much to recommend this amendment to the acceptance of the Council. We are all interested, apart from the controversies of a recent date, in maintaining the purity of the Corporation, and I am perfectly certain that this Council will sympathise with any desire on the part of any Hon'ble Member of this Council to ensure the purity of the Corporation by any legislative measure which might be found necessary. I do not know that I need say much more than this, except perhaps one word with reference to the phrase 'disgraceful conduct'. It might be said that this is somewhat vague. What is meant by disgraceful conduct? With reference to it, I will quote the observations of the Advocate-General when the Mufassal Municipal Bill was being considered by this Council. The Hon'ble the

* Bengal Act III of 1884.

[*Babu Surendranath Banerjee; Mr. Buckland; Mr. Baker; Mr. Apcar.*]

Advocate-General thought that the term 'disgraceful conduct' was not 'in any way vague or indefinite. It was conduct unbecoming the position of a Commissioner.' I am sure there will be no difficulty whatsoever in determining in practice what is 'disgraceful conduct.' If, Sir, you look up the archives of your office, you will find that there have been one or two cases. There is one case within my own personal knowledge. There have been other cases in which Municipal Commissioners in the mufassal have felt it their duty to remove Commissioners for disgraceful conduct, and it is as well that a law of this kind should form part of the Calcutta Municipal Law. With these remarks I venture to recommend this amendment to the acceptance of the Council."

The Hon'ble MR. BUCKLAND said:—"Is it intended that the Commissioner in this case should have the right of being heard by counsel?"

The Hon'ble MR. BAKER said:—"Throughout the whole course of the Select Committee's proceedings the Select Committee carefully avoided inserting any words in the Bill which would imply that any person had the right to be heard by counsel before the Corporation, the General Committee or the Chairman."

The Hon'ble MR. APCAR said:—"Is not a Commissioner who may be placed in such a grave position entitled to the best help that he can get? I am in no way concerned to uphold the possibility of employment of the profession to which I have the honour to belong, but I look at it entirely from the point of view of one who is placed in a very difficult position. It would not be fair to any one placed in a difficult position if he is going to be deprived of the best assistance that he can afford and that is available. Here there is to be apparently an inquiry. What sort of an inquiry we know not, and then it is to be expressly here stated that the intention is that it shall not be allowed him to have such assistance as he may in his own defence and in his own discretion think best. I think it is placing him in a position of disadvantage, and the idea has not my sympathy."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I do not think he should be entitled as a matter of right to be heard by counsel; but, if the Corporation in its discretion think that a particular case is a case in which the person concerned may be allowed to be heard by counsel, I do not think there is the

smallest idea on our part to restrict or fetter in any way the discretion of the Corporation. The other day there was a case in point in the Corporation. The New Market people had a grievance, and they wanted to be heard by counsel. The General Committee discussed the matter, and my hon'ble friend Mr. Oldham and others came to the conclusion that the General Committee were quite competent to come to a decision independent of any advice which might be tendered by counsel. But I also remember another market case in which counsel was employed. There was a fight between two great owners of markets. I think it was in 1881, in the time of Sir Henry Harrison. Anath Nath Dey had started a new market and Rajendro Lall Mullick wanted that the market should not be permitted to be opened. There was a fight, and they wanted to be heard by counsel, and I remember very distinctly that Mr. W. C. Bonerjee appeared as counsel on behalf of one of the parties. I think the whole matter might be left to the discretion of the Corporation as to whether in any particular case the party should have the right to be heard by counsel or not. I think we ought to depend upon the judgment of the Corporation and depend upon that judgment without any hesitation."

The Hon'ble MR. BAKER:—"That is exactly what the Select Committee unanimously decided. The Select Committee felt quite sure that the matter should be left to the discretion of the Corporation or the General Committee, as the case might be, and that it would not do to give a statutory right to anybody under the Bill to be heard by counsel."

The Hon'ble MR. BOLTON said:—"If the section specifically provided that the party concerned shall have the right of being heard by counsel, it is probable that counsel would be invariably engaged, although their advocacy might be absolutely superfluous. It should be left to the Corporation to decide in each case, according to the circumstances, whether the employment of counsel should be allowed or not."

The Hon'ble BABU JATRA MOHAN SEN said:—"In the mufassal, as I am aware, both in cases before the District Board and also in cases before the Municipal Commissioners, the members in their discretion allow counsel and pleaders to be heard in private cases. Of course the discretion rests with the Commissioners, and once, as I am aware, a vote was taken as to whether counsel should be heard or not, and as a matter of fact the consent was given that counsel should be heard.

[*Babu Jatra Mohan Sen; Babu Boikanta Nath Sen; Mr. Apcar; Babu Surendranath Banerjee.*]

I think, therefore, it is a very wise provision that the discretion should be left to the Commissioners to hear counsel."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I fear that this amendment introduces a certain amount of risk and uncertainty in the position of a Commissioner; especially, I take exception to the expression 'guilty of misconduct,' as understood in legal phraseology. If I mistake not, when a case is referred to arbitration, and the arbitrator's award is sought to be set aside on account of misconduct, that misconduct has been construed to mean, not simply misconduct, looking at it from a moral aspect, but if there are two or more arbitrators, and if they do not attend regularly, that amounts to misconduct. So that this expression 'misconduct' rather seems to me to be vague, and ought to be clearly defined. There ought to be definite charges or grounds on which the Commissioner would be liable."

The Hon'ble MR. APCAR said:—"With reference to what fell from the Hon'ble Mr. Bolton, I say that, when a right is given, it is not compulsory on the person to exercise that right. It is optional. I do not mean to compel any person to use this right, but he ought to have a discretion in the matter. I think some of the mischief that I thought existed is removed by the disclaimer that it is not intended to preclude any one from having counsel to represent them. I think there is a great deal of force in what the Hon'ble Babu Boikanto Nath Sen has said; but I have not dwelt so much upon it, because, if there is any injustice done, I look to another procedure to set matters right, which will be altogether independent of the General Committee or the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to say one word in reply. 'Misconduct' is a word used in the Mufassal Municipal Act; and, whatever vagueness the term may imply, when we come to adminster the law a good deal of that vagueness disappears. The difficulties which are anticipated by cautious administrators are oftentimes difficulties which really do not meet one in the actual work of administration. I am not an administrator, but I have my own little business. I have found that difficulties anticipated as likely to accrue do not as a matter of fact occur in actual practice. No difficulty has arisen in the administration of this section in the Bengal Municipal Act. I do not suppose that my hon'ble friend in charge of the Municipal Department will

be able to say that any difficulty has arisen. That being so, I think we may rely upon the experience we have gathered from the administration of a similar section in the Bengal Municipal Act; and I hope, Sir, that this amendment will be accepted."

The motion was then put in the amended form and agreed to.

SECTIONS 63 AND 64.

The Hon'ble BABU SURENDRANATH BANERJEE also moved (amendment No. 143) that in lines 7, 8, 9 and 10 in clause (*a*) of section 57 (*now* 63), for the words "more than one thousand rupees *per mensem*, which the Local Government may authorise the Corporation to fill," the words "five hundred rupees *per mensem* and upwards" be substituted.

He said:—"This is rather an important matter, and I was going to suggest to my hon'ble friend in charge of the Bill whether we might not take up this amendment along with amendments 147, 148, 149 and 150. They all refer to these superior appointments of the Corporation."

The Hon'ble MR. BAKER said:—"That would be very convenient."

The Hon'ble BABU SURENDRANATH BANERJEE then moved—

No. 147: that for the words "General Committee," in line 1 of section 57A (*now* 64), the word "Chairman" be substituted, and that for the word "they," in line 2 of clause (*a*) of the same section, the word "he" be substituted;

No. 148: that the word "two" be substituted for the word "three" in line 4 of clause (*a*) of section 57A (*now* 64), and that the words "and are not mentioned or referred to in section 57 (*now* 63)," in lines 5 and 6 of clause (*a*) of the same section, be omitted;

No. 149: that the following proviso be added at the end of section 57A (*now* 64):—

"Provided that no person shall be appointed to, or removed from, any office the monthly salary of which exceeds two hundred rupees without the sanction of the Corporation. And the Corporation may authorise the Chairman to nominate not more than three of the candidates for any such appointment as is referred to in this proviso, and the Corporation shall, upon such nomination being made, appoint one of the persons so nominated and no other."

No. 150: that clause (*b*) of section 57A (*now* 64) be omitted.

[*Babu Surendranath Banerjee.*]

He said:—"Sir, I feel so strongly about the justice of my case that I am sure if I had the pleading of it before a Court of Justice the verdict would be on my side, and I can only express an earnest hope that the Council will approach the consideration of this matter in a spirit perfectly free from bias as regards the points raised in these amendments. The object of these amendments is to restore to the Corporation the power which it now possesses of making superior appointments. I will briefly explain the present law and indicate the changes which have been proposed in the Bill; but before I do so I think it is right and proper that I should express my gratitude to my hon'ble friend in charge of the Bill for the concessions which he made in this respect at an early stage of the discussion when the Bill was before the Select Committee. The Bill as originally introduced—Mr. Risley's Bill—deprived the Corporation completely of the power of making the superior appointments, and it was after my earnest appeals to my hon'ble friend in charge of the Bill that Your Honour's Government was pleased to make certain concessions. These concessions are embodied in the Bill. I am thankful for them, but, Sir, I do not think they go far enough. It seems to me that the Corporation ought not to be deprived in any way of the power which it now possesses of making the superior appointments. Under the existing law all appointments carrying salaries of Rs. 200 a month and under are made by the Chairman. All appointments carrying salaries of above Rs. 200 a month are made by the Corporation, subject to this important condition, that, in respect of appointments carrying salaries of above Rs. 200 and under Rs. 500 a month, the Chairman has to submit three names to the Commissioners, and the Commissioners elect one from among the persons thus nominated. Therefore, Sir, you will see that in respect of this class of appointments the initiative has to be taken by the Chairman. The power of veto lies with the Corporation. Subject to this reservation, the power of making the superior appointments carrying salaries of Rs. 200 a month and upwards is vested under the present law in the Corporation. Under the Bill, Sir, you propose to withdraw from the Corporation the power of making the superior appointments with the exception of those referred to in the section to which my amendment relates, and subject to the further provision that the Government may at its discretion invite the Corporation to make appointments carrying salaries of Rs. 1,000 a month and upwards. The power of making these superior appointments is thus withdrawn from the Corporation, and the spoils of war, if I may be permitted to use that expression, are divided between

the Chairman and the General Committee. The Chairman is invested with the power of making appointments up to Rs. 300 a month, and the result is that twenty new appointments of very great importance will now be made by the Chairman, which appointments formerly used to be made by the Corporation, subject to the nomination of the Chairman. Let me state what these appointments are:—

		Rs.
1.	Inspector of Jute Warehouses	200—300
2-3.	Two Assistant Assessors	200—300
4-6.	Three Superintendents of Conservancy	200—300
7.	Superintendent of Stores	250—300
8.	Treasurer	200—300
9.	Inspector of Carts	250
10.	Superintendent of Gowkhanas	250—300
11.	Superintendent, Halliday Street Pumping Station ...	270
12.	Superintendent, Wellington Square Pumping Station ...	250
13.	Superintendent, Bhowanipur Pumping Station ...	250
14.	Superintendent, Watgunge Pumping Station ...	260
15.	Superintendent, Entally Workshop	300
16.	Superintendent, New Drainage	270
17.	Superintendent, New Drainage	200—250
18.	Analyst	150—300
19.	Deputy Superintendent of Vaccination	250
20.	Pipelayer	200—250

"Now, Sir, I do not know what the status of the Chairman would be in official estimation, but I should like to ask whether a Magistrate of the District or a Commissioner of Division or, for the matter of that, even the Chief Secretary to the Government of Bengal, is permitted to make appointments carrying such high salaries without Your Honour's sanction? I do not think so. You therefore practically place the Chairman of the Corporation in respect to the making of these appointments upon a completely independent footing—upon a footing far more independent than what officers of a higher status in the same service occupy. The Chairman under the Bill makes all appointments carrying salaries of Rs. 300 a month and under. All other higher appointments are made by the General Committee. What is the justification for the withdrawal of this power from the Corporation? If the Corporation had used their powers in this respect in an unsatisfactory way, or had misused those powers, I could

understand the *raison d'être* for the change; but, Sir, the records of the Government and the records of the Corporation bear testimony which point to an opposite conclusion. From 1876 to 1899 numerous appointments have been made by the Corporation, all subject to the approval of the Government, and these appointments were all confirmed by the Government with one exception, and that was the case of Mr. Wyman, who was nominated to be Secretary to the Corporation. Therefore, Sir, it comes to this, that from 1876 to 1899, in the making of these higher appointments, subject to the approval of Government, the Corporation has so acted as to merit the approbation and the confidence of the higher authorities. Why then, Sir, do you propose to take away this power? The power has not been abused. The power has been satisfactorily used; it has been used in such a way as to meet with the approval of Government. What then, Sir, I venture to ask, is the justification for the withdrawal of these appointments from the Corporation, and especially now when the Corporation is to be constituted upon what I venture to submit is an official basis? In the Statement of Objects and Reasons nothing is said in justification of this change; but Mr. Risley was pleased to quote the authority of Sir Henry Harrison in one of his speeches. Sir Henry Harrison is reported to have said that 'the Municipality failed most conspicuously in personal questions when each Commissioner is subject to private solicitation and unwholesome pressure and gives his vote under the influence of motives, very few of which are consistent with the well-being of the city.' This was what Sir Henry Harrison is reported to have said; but did he take any active steps to withdraw this power from the Corporation? It was in his power to have done so. He was in charge of the Calcutta Municipal Bill at one time. If he felt that this was a weak point of the Corporation; if he felt that the power was abused; if he felt that the Corporation with regard to these appointments did not do what he conceived it to be their duty,—it was open to him in 1888 to have changed the law in this respect. On the other hand, I could quote instance after instance to show the abounding confidence which Sir Henry Harrison felt in the Corporation. He said that questions which had been decided adverse to him by Committees were brought up before the Corporation, and his own views were often supported by the Corporation. Therefore, Sir, even if it were the case—and undoubtedly it was the case—that Sir Henry Harrison made these remarks, the fact remains that he did nothing to change the present law or to deprive the Corporation of the power of making these appointments. Is it conceivable that 50 persons acting in the full blaze

of publicity, acting under a solemn sense of responsibility, are more likely to go wrong than 12 persons acting in secret— acting no doubt under a sense of responsibility? One person, however able or eminent he might be, is more exposed to personal pressure than a number of individuals. We have a saying in our own language which embodies the wisdom of our ancestors in this matter. They say that 'where five persons are gathered together for a public purpose there the Divine presence is felt;' therein lies the secret of our faith in their judgment. Where a number of persons, not a coterie or clique, are gathered together for a public purpose, there is a superior power, the invisible strength of an unknown Majesty, which leads them to do their duty; and I cannot help thinking that it is a disastrous blunder to deprive the Corporation of a responsibility which it has hitherto exercised with credit to itself and with advantage to the public, and to delegate that authority to only one individual, however eminent he might be, or only a dozen individuals acting in secret, deliberating in secret and removed from the enlightened and wholesome influence of public opinion. I think, Sir, these are considerations which must weigh with Your Honour's Government; these are considerations to which this Council cannot turn a deaf ear, and I hope and trust that in view of these considerations the Council will accept my amendments."

The Hon'ble MR. BAKER said:—"I admit, Sir, I should have experienced some difficulty if I had been called upon to defend the proposals put forward in the original Bill. Those proposals practically withdrew from the Corporation all power of making appointments, with two exceptions, and as that power had not, in my judgment, been misused in the past, it would not have been easy to justify its withdrawal.

"But the provisions of the Bill as they now stand are very different; and I think good and convincing reasons can be shown for confirming them.

"The object of the amendments is to restore to the Corporation the power which they possess, under the present Act, of making all appointments on pay exceeding Rs. 200 per mensem.

"The provisions in the Bill were very carefully considered by Government before they were submitted to the Select Committee, and I trust that the decision of the Committee will commend itself to the Council.

"Originally it was proposed to withdraw from the Corporation all appointments except those of the Secretary and the Controller of Accounts. It seemed

to me, however, when I came to look into the matter, that it was possible to distinguish—to draw a line of demarcation—between various classes of appointments. According to my experience, the Corporation has endeavoured to do its best according to its lights in filling appointments of the highest class in the past. In selecting men to be Engineer, Health Officer, Secretary and Assessor, I have known of no wilfully perverse appointments, no instances of jobbery or corruption or of race-feeling. Though I will not say that individual Commissioners have not, in some cases, supported undesirable candidates, for questionable reasons, yet the good sense of the Corporation, as a whole, has preserved the city from the disgrace of a misuse of its patronage in respect of these high appointments. It must be remembered that all the appointments of the class I am referring to are heads of departments; they are highly paid, and have very important and responsible duties. The selection for them attracts a good deal of public attention, and any flagrant case of nepotism or jobbery would be sure to be speedily attacked in the Press and by public bodies. Whatever the reason may be, the Corporation has done well in the past according to its lights, and has, so far as I know, always endeavoured to choose the best men. I am willing to believe that it will continue to do so in the future, and I, therefore, ventured to make a representation to Your Honour that it would be equitable to allow the Corporation to continue to exercise its power in respect of these higher posts. This was acceded to and is now embodied in the Bill. But, Sir, the Hon'ble Member wishes to go further. He wishes to restore the law to what it is under the present Act. He wishes not merely to give to the Corporation the right of appointing their highest officers and their heads of departments, but also to give them the right of filling those intermediate appointments which rank between the highest and the lower class which, all are agreed, ought to be filled by the Chairman.

"These appointments carry rates of pay which are sufficiently large to make them eagerly sought after; but neither their status nor their emoluments are high enough to attract much public attention. In the case of these intermediate appointments the safeguard of an active public opinion is wanting, and I think the Corporation in filling them has not always appeared to good advantage. The nature of the case is such as scarcely admits of positive proof: certainly I do not claim to possess any such proof; and I shall mention no names. But I think that not even the most ardent champion of the Corporation will assert that its selections for these appointments have always been above

suspicion. Is it not the case that, at least according to popular repute, some, even many, of these appointments have been secured by canvassing, by personal favour and influence, by other means than merit and desert? We seek in the present Bill to save the Corporation from itself, by withdrawing from it the dangerous duty of filling these appointments, and by transferring that function to the General Committee. The Hon'ble Member has said that it is easier to canvass a small body of 12 than a large one of 50. But this argument leaves out of account the constitution of the two bodies. We hope that the General Committee will attract to itself all the working talent of the Corporation, all the men of greatest ability and experience, and of the highest character. It should contain none of the weak, unthinking or shady class who carry little weight or influence, but whose votes count for as much in an election as those of Commissioners of the highest character and intelligence.

"One word more. The Hon'ble Member has said that not even the Chief Secretary to Government or Commissioners of Divisions could fill appointments from Rs. 200 to Rs. 300 a month. I will go further than that. I will name an office, the holder of which occupies a much lower position than that of the Chief Secretary or the Commissioner of a Division,—I refer to an appointment which I recently held myself,—that of Collector of Customs. The Collector of Customs has the patronage of some forty or fifty appointments, all of which come within this range of pay, and many of which rank very considerably higher.

"Finally, Sir, the Hon'ble Babu Surendranath Banerjee, after referring to the remarks quoted by Mr. Risley from Sir Henry Harrison, said that Sir Henry Harrison was in charge of the Bill in 1888, and yet in spite of that opinion he made no effort to alter the powers of the Corporation. I find, Sir, if Mr. Risley is correctly quoted, that these remarks were made by Sir Henry Harrison, not when the Bill was before the Council, but two years later, in 1890. That accounts possibly for the fact that Sir Henry Harrison did not deal with the matter when the Bill was before the Legislature."

The Hon'ble MR. APCAR said:—"I confess that when I saw that the power given to the Chairman is to appoint to places where the salary was up to Rs. 300 a month, I felt it was throwing a greater strain upon the Chairman than he himself would care to have. I do not suppose he seeks this power himself, and the result of it seems to me that he will be overwhelmed with petitions from

every district in which he has served. He will be troubled to a degree by every Deputy Magistrate and every Deputy Collector of any district where he has served who has got any friends or relatives to advance. He will be worried by them with applications for appointments, and it seems to me in the interest of the Chairman, when he has got so much work thrown upon him, that it would be infinitely better to relieve him of the worry of entertaining these applications and, in many instances, of hearing persons who may come to him, and whom he cannot refuse to see, for the purpose of advocating the claim of some relative or friend. In these circumstances, it would have been better, I think, in the Chairman's own interest, if there had been less power given to him. With reference to these amendments of my hon'ble friend Babu Surendranath Banerjee, I think his prayer might be conceded in this respect, because there ought to be, at all events now that there is to be a Corporation of such a different constitution, some effect given to the change that the Government have made. With regard to what the Hon'ble Member in charge of the Bill said about canvassing, I would remind him that candidates are forbidden to canvass the members of the Corporation. No canvassing is permitted now; and the fact that a candidate has been canvassing will tell against him most severely in his candidature. We know of course that canvassing does continue sometimes, but, if it becomes known that any one has been canvassing, it always tells against him very strongly; so that the question of canvassing ought not to enter into our consideration in determining this question, and I do not think it is asking too much that the Corporation should be given the opportunity of making appointments of this character. I do not lay very much stress upon the point, but I think that, inasmuch as the Corporation has had the power, it ought not to be taken away from them."

The Hon'ble Mr. Bolton said:—"I think, Sir, that this is part of the general system of the Bill that there should be three distinct authorities in the Municipality—the Corporation, the General Committee and the Chairman. If these three authorities exist, it is natural and logical that the appointments should be divided between them, and they are so divided under this Bill. The Hon'ble Member in charge of the Bill has said that he wished to protect the Corporation from itself, because, in making the minor appointments, it would be freer of the check of public opinion which operates strongly in the case of the higher appointments. I would myself take the ground that it is right, as the

[*Mr. Bolton; Mr. Buckley; Mr. Oldham; Babu Surendranath Banerjee.*]

Bill is now drawn, that the patronage of the Municipality should be divided among the three different bodies. The Hon'ble Mr. Apcar, in commendable solicitude for the future ease of the Chairman, has urged that he would be overwhelmed by the number of candidates for these appointments; but how much greater would be the evil if these appointments are made over to fifty Commissioners, and each of these gentlemen is subjected to the importunity of the candidates? I think, therefore, that the scheme of the Bill is logical and appropriate."

The Hon'ble MR. BUCKLEY said:—"The Hon'ble Babu Surendranath Banerjee asked whether a Commissioner of a Division or any high officer of Government had any authority to make any appointments of Rs. 300 a month and upwards. In the Public Works Department any Superintending Engineer can appoint a person on not more than Rs. 250 a month, provided that such person is specially entertained for the work in connection with construction, subordinate supervision, and accounting for stores and labour. In other words, he can employ any person on the pay stated provided that he is specially required for a particular work, but not either on the permanent establishment or what is ordinarily called the temporary establishment."

The Hon'ble MR. OLDHAM said:—"I entirely corroborate the Hon'ble Mr. Apcar in the description he has given of the worry and trouble to which the Chairman will be subject in regard to these appointments he is to make, but I would remind my hon'ble friend, from the list of them which the Hon'ble Babu Surendranath Banerjee has read out, that the additional appointments so thrown on the Chairman will only be twenty, so that the additional duty which he will have to discharge in this respect will not be excessively burdensome and, at the same time, as President of the General Committee, he will have just as much trouble in connection with the appointments which have to be made by the General Committee."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"My first words will be words of acknowledgment to the Hon'ble Member in charge of the Bill for his recognition of the work of the Corporation in this respect. He has been good enough to tell us that the Corporation have done their best in securing the best men for these appointments, and he went further and said—and I wish these words to be recorded having regard to recent controversies—that 'there has

[*Babu Surendranath Banerjee.*]

been no jobbery and no corruption' in the making of these appointments. Sir, in this Council, about eighteen months ago, we heard a statement made by high authority which is entirely in conflict with the statement made by the Hon'ble Member in charge of the Bill; but I regard the authority of the Hon'ble Member who himself is an experienced Municipal Commissioner, as carrying greater weight than even that of the distinguished authority who made the other statement eighteen months ago. My hon'ble friend has observed that these good appointments were due to the fact that they attracted a considerable measure of public attention, and that it was the interest the public took in these appointments that secured the best men, that the same measure of public attention was not paid to the intermediate appointments, and consequently the best men were not appointed to these intermediate offices. Here I respectfully beg to challenge the statement of facts made by my hon'ble friend. My hon'ble friend will bear in mind that for these intermediate appointments the Chairman is in the first place responsible. What are the intermediate appointments? The appointments carrying salaries of above Rs. 200 and under Rs. 500 a month. These are the intermediate appointments, and, as I have already pointed out, in respect of this class of appointments the nominations are made by the Chairman. The Chairman nominates three persons, and his discretion in this matter is absolutely unfettered. He does not consult the General Committee; he does not consult anybody; he proceeds upon his own independent judgment. The Chairman, in respect of these intermediate appointments, submits three names, and the Commissioners are limited to those three names. They can veto them all, and the Chairman would be under the necessity of submitting new names; but that has never occurred. Therefore, Sir, in respect of these intermediate appointments, which my hon'ble friend in charge of the Bill says have not given satisfaction, if the responsibility lies anywhere, it lies upon the shoulders of the Chairman, because he makes the nominations. The discretion of the Commissioners is fettered by these nominations. The Commissioners cannot go beyond those nominations. If these appointments have not been satisfactory, it is obvious that the Chairman is to blame, and, therefore, if I am to proceed upon my hon'ble friend's assumption, the authority of the Chairman ought to be curtailed, and all these intermediate appointments should be made by the Corporation, having regard to the satisfactory manner in which it has always made the superior appointments. I think that is the logical conclusion to which my hon'ble friend's argument irresistibly points.

[*Babu Surendranath Banerjee.*]

"My hon'ble friend has been good enough to tell us that the twelve members of the General Committee would be the best men, and that, therefore, they ought to be trusted more in the matter of the making of these appointments than the fifty Commissioners. Where is the guarantee that he will get twelve of the best men? If you say that the experience of the past is the guide of the future, to that my reply is: You have no experience of the past to guide you in the unknown venture upon which you are about to embark. It is a new law which you are enacting. If the constitution had not been so thoroughly revolutionised, then you might have appealed to the experience of the past; but you have completely changed the constitution. The Municipality of 1900 will not be the Municipality that existed between 1876 and 1899. If a person were to rise from his grave and look at the Municipality of 1900, and if he had known the Municipality of 1876, he would not be able to recognise any similarity between the two. Therefore, the experience of the past is no guide as to what the future is to be, and you are not at liberty to say that with this constitution you will have the best men elected on the General Committee. There is always a distinct advantage in fifty persons meeting together for purposes of deliberation. Fifty persons meeting together for a public purpose, deliberating in the full blaze of publicity, can hardly go wrong. I can hardly recall to mind any Resolution of the Commissioners to which I could conscientiously take exception from 1876 to 1899, because I say there is something in the atmosphere of a great and solemn public meeting which leads those who are there to do that which is right. I know not what that unseen, invisible, but felt, influence is which leads those who are there to do that which is in accordance with their conscientious convictions. I would trust fifty persons a great deal more than twelve, no matter how able and conscientious those twelve persons may be; and I hope, Sir, the Council will not withdraw this power from the Corporation, and vest it in a small body or clique of twelve persons.

"My hon'ble friend Mr. Oldham has referred to canvassing and the evils of canvassing. I am not at all desirous of minimising those evils, but, Sir, those who seek for municipal appointments know perfectly well to what persons to go to for canvassing, and there are others whom they never canvass. I have never been canvassed; Babu Kally Nath Mitter has never been canvassed; I doubt very much whether Babu Nalin Behary Sircar has been canvassed. When persons come to me to canvass, I tell them that they might just as well

[*Babu Surendranath Banerjee; Mr. Baker.*]

speak to the wall. There are many who have formed that definite habit of mind, and they will not allow themselves to be canvassed. The public know that they will not allow themselves to be canvassed. They are above and beyond the reach of the canvasser and the pressure of personal influence."

The Hon'ble MR. BAKER said:—"These are the Commissioners who will be on the General Committee."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My connection with the Municipality and the General Committee is at an end. Of course, there may be better men than ourselves, who may in the future lead and guide the Corporation. I must again say, Sir, that it is a distinct advantage to leave the superior appointments and even the intermediate appointments to the Corporation, and, because the Corporation has done its best in the past, it may be trusted to do its best in the future. That is the plain lesson of experience, and I invite the Council to retain the present law."

The motions being severally put, the Council divided in each case as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Mackenzie.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
The Hon'ble Mr. Apcar.	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Slack.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Handley.
	The Hon'ble Mr. Buckland.
	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Buckley.
	The Hon'ble Mr. Oldham.

So the amendments were lost.

[*Mr. Apcar.*]

The Hon'ble MR. APCAR moved that section 57 (*now* 63), sub-section (*3*), do form a separate section, and that the following clauses be added thereto:—

"and shall—

(*a*) perform such duties as he is directed by this Act to perform and such other duties in, and with regard to, the Corporation and the General Committee as may be required of him by those bodies respectively;

(*b*) have the custody of all papers and documents connected with the proceedings of—

(*i*) the Corporation and any Committee appointed by the Corporation; or

(*ii*) the General Committee and Sub-Committees thereof;

(*c*) devote his whole time and attention to the duties of his office;

(*d*) be removeable from office at any time by the Corporation for misconduct or for neglect or incapacity for the duties of the office.

(*2*) The General Committee, with the approval of the Corporation, may from time to time—

(*i*) appoint such clerks and servants, to be immediately subordinate to the Secretary, as they think fit;

(*ii*) determine the nature and amount of the salaries, fees and allowances to be paid to the said servants and clerks, respectively;

(*iii*) prescribe, or delegate to the Secretary the power of prescribing, the duties of the said clerks and servants.

(*3*) The Secretary, subject to the orders of the General Committee and of the Corporation, shall exercise supervision and control over the acts and proceedings of the said clerks and servants; and the General Committee, subject to the regulations for the time being in force regarding all other municipal employés, shall, with the approval of the Corporation, dispose of all questions relating to the service of the said clerks and servants, and their pay, privileges and allowances."

He said:—"This is in execution of my design of bringing the Act here into line with the Bombay Act. In the Bombay Act they have all through devised a system of checks, and that seems to me to be most dangerously disregarded in the Bill before us. They have been devised for Bombay because of their past experience, and it seems to me that in this Bill we are not taking advantage of the experience of the past from which Bombay has suffered and is now profiting. It is no invidiousness with regard to public questions that there should be checks. The Government of Bombay have devised a system of checks with regard to all questions, particularly with relation to finance, and in this way and also all public bodies they are most careful to have a system of checks as being safeguards in the public interest. So here I think it would

also be advisable to have a system of checks. Now, if all the officers are placed subordinate to the Chairman they have no voice in any question at all; they cannot take any kind of objection to anything that may be done by the Chairman. If the Vice-Chairman sees any irregularity, he must say nothing. So with the Secretary also; if he is under the authority of the Chairman, if he is required to sign a cheque when he sees that the budget estimates will be exceeded, he has got no kind of position to enable him to assert that the budget estimate is being exceeded. If the Chairman says 'sign it,' he has got to sign it. Then also with regard to papers. If the Chairman is to be the head of the executive and is placed also superior to the Secretary—I mean that the Secretary is made directly subordinate to him—then, if he says certain papers are not to be shown, they cannot show them. If the General Committee desire to see certain papers which the head of the executive may wish should not be brought forward, the Secretary is in a position in which he cannot in any way disregard the orders of the Chairman. The section that I propose to add to this Bill is identical with what exists in the Bombay Act. So that it cannot be taken to be ill-considered, and indeed, whenever the Bombay Act has been referred to—and it has been referred to by high authorities—it has always been referred to as being an excellent system. This is part of the system, and I think it is most important that there should be definite and recognised checks of the character that I venture to submit."

The Hon'ble MR. BAKER said:—"I half expected, Sir, that the Hon'ble Member would have withdrawn his amendment. The section, as he has told us, is taken from the Bombay Act. If the Council had accepted the Hon'ble Member's previous amendments for the introduction of the Bombay system, this section would have been quite appropriate and might have been accepted here; but, as we have rejected the Bombay system, this section becomes useless and inappropriate. The object of it is to establish for the Corporation and the General Committee an office distinct and separate from the office of Chairman. Now in the Bombay system that is quite intelligible, because the head of the executive there is not the President of the General Committee or of the Corporation. He is outside both of those bodies, and his office is necessarily separate, but in Calcutta the Chairman is the President of both the Corporation and of the General Committee. There are not two offices. There is only one office for the whole Corporation. The Chairman is necessarily the head of

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

that office. The Secretary is only the clerical or ministerial head of the office, and all that he has to do is to discharge such duties as the Chairman may make over to him. It would be absolutely meaningless to introduce a provision of this kind into the Calcutta system."

The motion was then put and lost.

The Hon'ble Babu Surendranath Banerjee's motion for the amendment of section 57 (*now* 63) having been lost, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name, that in section 57 (*now* 63), sub-section (*1*), clause (*a*), for "thousand" be substituted "hundred," and that the words "which the Local Government may authorise the Corporation to fill" be omitted.

He said:—"This amendment is of a more radical character than No. 143* moved by the Hon'ble Babu Surendranath Banerjee. I propose to substitute 'one hundred rupees' but he proposed to substitute 'five hundred rupees'; and having regard to the vote on that amendment, I cannot ask the Council to reverse their decision. I am obliged therefore to withdraw it."

The Hon'ble MR. BAKER said:—"Perhaps this also applies to amendments 151 and 152." †

The Hon'ble Babu Surendranath Banerjee's motions for the amendment of section 57A (*now* 64) having been lost, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, also by leave of the Council, withdrew the following motions standing in his name:—

No. 151: that in section 57A (*now* 64), line 1, after the word "may" be added "subject to the approval of the Corporation";

No. 152: that in clause (*a*) of the same section, for "three hundred" be substituted "fifty".

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 57 (*now* 63), sub-section (2), for "may" be substituted "shall not".

He said:—"My suggestion is that two or more of these superior offices should not be held by the same individual. I have no faith in the doctrine of plurality of offices, and I cannot persuade myself to believe that, if two such responsible offices are held by one individual, the arrangement can be beneficial to any except the fortunate officer."

* *i.e.*, that moved by the Hon'ble Babu Surendranath Banerjee—*vide* p. 498, *supra*.

† *i.e.*, amendment of s. 57A [*now* 64] (*vide* paragraph immediately following).

[*Babu Surendranath Banerjee; Mr. Baker; the President.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As an experienced member of the Corporation I must object to my friend's amendment, because it is found necessary sometimes that the same person should hold two offices. If the Vice-Chairman took leave, the Secretary would perform the duties of the Vice-Chairman in addition to his own duties. Suppose, for instance, the Joint-Collector is on leave; the Collector will perform the duties of Collector and Joint-Collector. I do not think we ought to have a hard-and-fast rule, the effect of which would be to prevent a combination of offices which circumstances might require."

The Hon'ble MR. BAKER said:—"I entirely concur with what the Hon'ble Babu Surendranath Banerjee has said."

The motion was then put and lost.

The Hon'ble THE PRESIDENT said:—"We now come to the second or supplementary list of business which is re-numbered and begins with No. 1."

SECTION 65.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "and provision for the same shall be made in the budget estimate," in lines 4 and 5 of sub-section (2) of section 59 (*now* 65), the following be substituted:—"and the same shall be entered in the budget estimate."

He said:—"This is a very small matter, and I think the Hon'ble Member in charge of the Bill will agree to it. It is a mere matter of verbal drafting. Section 59 (*now* 65) of the Bill says:—

'(*1*) The Chairman shall annually prepare and bring before the General Committee a statement setting forth the designations and grades of the officers and servants (other than those mentioned or referred to in sections 57 and 57A (*now* 63 and 64) and other than employés who are paid by the day or whose pay is charged to temporary work) who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.'

"Sub-section (*2*) says:—

'(*2*) The General Committee shall sanction such statement either as it stands or subject to such modifications as they may deem expedient, and provision for the same shall be made in the budget estimate.'

"Therefore, it is open to the General Committee to exercise their discretion with reference to this particular statement. Then, Sir, we find 'and provision

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Apcar; Dr. Asutosh Mukhopadhyaya.*]

for the same shall be made in the budget estimate.' I suggest that those words should be changed and the following substituted: 'and the same shall be entered in the budget estimate.' It seems to me that these words imply an obligation upon the Corporation to accept the recommendation of the General Committee and as if no discretion whatever was allowed to the Corporation. Obviously that is not the intention of the law. The Corporation having the control of the finances must have absolute discretion in a matter like this, and therefore I want to put it in this form—'and the same shall be entered in the budget estimate,' so that it would be open to the Corporation to exercise what discretion it thought fit in connection with the matter.'

The Hon'ble MR. BAKER said:—"The Hon'ble Mr. Apcar has an amendment of the same nature on this section. I prefer the wording of Mr. Apcar's amendment, and am ready to accept that amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept Mr. Apcar's amendment and withdraw mine."

The Hon'ble MR. APCAR then moved that in section 59 (*now* 65), sub-section (*2*), line 4, for the word "made" the word "entered" be substituted.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew his amendment.

The Hon'ble MR. APCAR'S motion was then put and agreed to.

SECTION 66.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 61 (*now* 66), sub-section (*1*), after the word "employer" add the words "or employé."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

SECTION 67.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motions for the amendment of section 28D (*now* 38) having been lost, he, by leave of the Council, withdrew the motions standing in his name, that in section 61A (*now* 67), sub-section (*1*),

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker; the President.*]

for "seriously indebted to any person", and in sub-section (*2*), for "so indebted", be substituted "an uncertificated bankrupt or an undischarged insolvent".

He said:—"This amendment must be withdrawn in view of the adverse decision recorded upon a similar amendment."

SECTION 68.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "Local Government" in line 1 of section 61B (*now* 68) the word "Corporation" be substituted.

He said:—"If the Hon'ble Member in charge of the Bill will accept this amendment, I will slightly modify it. I would say 'the Corporation with the approval of the Local Government.'

The Hon'ble MR. BAKER said:—"I was just going to suggest the same thing. If the Hon'ble Member will make a reference to this section in section 597 (*now* 569), the necessary effect will be produced, and I will accept the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I think it comes to the same thing."

The Hon'ble MR. BAKER:—"I accept the amendment on that understanding."

The Hon'ble THE PRESIDENT said:—"Then it is understood that the Hon'ble Babu Surendranath Banerjee will accept the motion on the part of the Hon'ble Member in charge of the Bill that the words "61B" (*now* 68) shall be added to section 597 (*now* 569).

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following clause be added at the end of section 61B (*now* 68):—

"It shall be the duty of the Chairman to see that all such rules are duly enforced."

He said:—"Sir, there is a history behind this amendment. Some time ago, at the instance of my friend Babu Norendro Nath Sen, certain rules were made for

determining the qualifications of persons to be employed in the Health Department and, I believe, also in the Engineering Department. These rules were framed, but they were not observed, and it is important that there should be a distinct provision in the Bill which should make it obligatory upon the executive to carry out rules to this effect. It is no use making rules if these rules will not be carried out. Therefore, Sir, having regard to our experince in this matter, I think it necessary to have a substantive provision to the effect suggested in my amendment. The object is to ensure that these rules shall be carried out, and it is necessary to have a provision like this. I think the Hon'ble Mr. Apcar will bear out my experience."

The Hon'ble MR. BAKER said:—"I have no objection in principle, but I think it is rather unusual to impose any statutory obligation of this kind on the Chairman. If it is not the duty of the Chairman to enforce these rules, then I am sure I do not know whose duty it is. It seems to me the amendment is unnecessary, but I will not oppose it."

The motion was then put and agreed to.

S 69.ECTION

The Hon'ble BABU SURENDRANATH BANERJEE also moved that section 61C (*now* 69) be omitted.

He said:—"I am afraid the verdict of the Council is bound to be against me, because in connection with a similar matter the Council has already given an adverse verdict. Section 61C (*now* 69) is as follows:—

'When a servant of the Government is appointed to be a municipal officer or servant, the Corporation may pay, in addition to his salary, any contribution which may for the time being be levied by the Government in respect of his pension or leave-allowances.'

"We never paid any contribution in the past, and I do not see why we should pay any in the future. That being so, I have felt it my duty to move this amendment."

The Hon'ble MR. BAKER said:—"I can only repeat what I said with reference to section 28DD (*now* 29). This section merely empowers the Corporation to pay the contribution which is exacted by Government when it lends the services of one of its officers to the Corporation. Government will not lend the services of an officer for more than six months except on the terms which are laid down

[*Mr. Baker; Mr. Apcar; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

in the Civil Service Regulations, and if the Corporation choose to borrow the services of a Government officer they have got to pay the price. The reason why they have not paid it hitherto is because they have not employed a Government officer. I explained twice yesterday that there is a special exception in favour of the Chairman. I do not know any other case in which the Corporation has had a Government officer in its service for more than six months. Captain Liddell was in their employ for a short time. If he had remained for more than six months they would have had to pay contribution."

The Hon'ble MR. APCAR said:—"This seems to be a sort of a Chinese puzzle, and I should be so much obliged if I was assisted to understand it. Does a Government servant contribute towards his pension from his own salary, or does he not? I am ignorant of official ways, but it would seem that a Government servant must contribute."

The Hon'ble MR. BAKER:—"No; certainly not. There is a special rule in connection with the Civil Service, but the ordinary rule is that Government servants do not contribute."

The Hon'ble BABU SURENDRANATH BANERJEE:—"The only time I remember we paid the contribution was in connection with Mr. Kimber's appointment. It was a matter of special arrangement, and we used to pay Rs. 200 or Rs. 300 a month as contribution."

The Hon'ble MR. BAKER:—"Government will not lend the services of its officers for more than six months unless these contributions are paid. If you want to get a Government officer, you must pay the contribution."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to section 61C (*now* 69):—

"Provided that no contribution under this section shall be paid, except by a resolution of the Corporation, in favour of which not less than two-thirds of the Commissioners voting have voted."

The motion was put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 61C (*now* 69), line 3, for "may" be substituted "shall not".

[*Dr. Asutosh Mukhopadhyaya; Raja Ranjit Sinha, Bahadur, of Nashipur; Mr. Baker.*]

He said:—"This amendment covers the same ground as the two previous ones by the Hon'ble Babu Surendranath Banerjee, but I would ask Your Honour to put it to the Council."

The motion was put and lost.

SECTION 70.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion for the amendment of section 26 (*now* 18), proviso (*b*), having been lost, he, by leave of the Council, withdrew the motion standing in his name, that, at the end of the first paragraph of section 62 (*now* 70), the words "subject to the provisions of section 26 (*now* 18), sub-section (*1*), proviso (*b*)," be added.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, moved that, after the words "Local Government," at the end of section 62 (*now* 70), the following be added:—

"and that in case of the dismissal of other municipal officers or servants drawing a salary of one hundred rupees or upwards *per mensem* an appeal shall lie to the Corporation."

He said:—"I find that the ministerial officers of Government have a right of appeal in case of dismissal or suspension, and I think it is only fair that the municipal officers and servants should have the same right. I hope my amendment will be accepted by the Hon'ble Member in charge of the Bill."

The Hon'ble MR. BAKER said:—"I am entirely opposed to this amendment. I strongly object to any appeal being given to the Corporation under any circumstances, least of all in a personal matter. When a municipal employé is dismissed, and he files an appeal, we all know what happens. He first goes round to one or two of his friends and he gives them his version of the case, and tries to excite their sympathy. If he succeeds, they go round among their friends, and when the matter eventually comes up before the meeting, it is decided, not upon its merits, but according to the preconceived impressions of his own friends, who set themselves to work upon the feelings of the other Commissioners, most of whom have no personal knowledge of the matter whatever. I am told that in Howrah within a short period motions have been made to reinstate every municipal employé who has been dismissed during the last two years. I should be very sorry to compare the Calcutta Corporation, even in its worst days, with the Howrah Municipality, but that is the state of

things which occurs in a Municipality which is not a thousand miles away, and it illustrates a kind of evil which is liable to occur when the decision of a personal question is remitted to a large popular body."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am in strong sympathy with the amendment of my hon'ble friend Raja Ranajit Sinha. I think, Sir, sometimes superior officers are apt to dismiss somewhat heedlessly those subordinate to their authority, and it is important that in such cases an appellate authority should exist and provision should be made for appeals. My hon'ble friend the Member in charge of the Bill will probably remember a very telling illustration of the importance of the Corporation exercising this appellate authority in connection with dismissed servants. Mr. Smith is the Superintendent of the Hackney Carriage Department, and he has been Superintendent for a number of years. A Committee was appointed to enquire into the working of the Hackney Carriage Department. The Committee included, amongst others, Mr. Phelps of the Trades Association, Mr. Abdur Rahman, and two or three other gentlemen. The Committee strongly recommended his dismissal, and I believe he was dismissed. He preferred an appeal to the Corporation. The Corporation appointed a Committee to enquire into the matter. I think I was one of those who sat on the Committee, and we all came to the unanimous conclusion—and I think Mr. Phelps also—that Mr. Smith ought not to be dismissed. We recommended that he should be reinstated and that he should have a further trial of six months. Those recommendations were carried into effect, and at the present moment Mr. Smith is a trusted servant of the Corporation. Mr. Smith was dismissed by the Chairman, dismissed by the Committee, and but for the appeal which he preferred to the Corporation and the action of the Corporation in connection with that appeal, he would now be a dismissed servant of the Corporation. It would have been a great injustice done to him, and it would have been a serious loss to the Corporation. I think it is necessary, in a case of this kind, that there should be an appellate authority, and the Corporation should be that appellate authority. My hon'ble friend the Member in charge of the Bill harps upon the old theme of canvassing. There are some people who are absolutely impervious to canvassing, and they have been the leading members of the Corporation. I do not see what possible inconvenience can arise from the Corporation being constituted as an appellate authority under the terms of my friend Raja Ranajit Sinha's amendment. It is not every day that appeals of

this kind will be preferred to the Corporation, and when appeals are preferred to the Corporation, it is only such appeals as ought to be entertained that will be entertained. The Hon'ble Member in charge of the Bill has referred to motions having been made to reinstate servants who have been dismissed during the last two years. I think he put it rather high, but I am obliged to trust to my friend when he said that there have been motions made in the Corporation with regard to dismissed servants. There might have been one or two such cases. A motion was made by a Muhammadan Commissioner—I think it was Mr. Moosa—in connection with a dismissed servant of the Corporation in the Health Department. We resolutely set our faces against that appeal. We upheld the authority of the executive, because we thought the dismissal was proper. The Howrah Municipality ought not to be compared with the Calcutta Corporation. I think it is an affront to the Calcutta Corporation that it should be degraded to the level of being compared with the Howrah Municipality. No illustration bearing upon the proceedings of the Calcutta Corporation should have been drawn from the example of the Howrah Municipality."

The Hon'ble MR. BAKER:—"The Hon'ble Member misunderstood me. What I said was I should be sorry to compare the Calcutta Corporation, even in its worst days, with the Howrah Municipality."

The Hon'ble BABU SURENDRANATH BANERJEE:—"I am sorry I misunderstood my hon'ble friend, and I withdraw my last remarks. The Calcutta Corporation is a great Corporation, of which any Government might be proud, and it certainly does not deserve the fate which is reserved for it. I am confident, when the history of the elected Municipality comes to be written, there will be a strong condemnation passed upon the Bill now before the Council."

The Hon'ble MR. APCAR said:—"I should like to supplement what my hon'ble friend Babu Surendranath Banerjee has said by reminding the Hon'ble Member in charge of this Bill—since my hon'ble friend has mentioned names—that Dr. O'Brien, a Government official of high standing, and one of their nominated Commissioners, was the leading spirit in obtaining this revision, which resulted in Mr. Smith being reinstated. And, with regard to what canvassing may do, my recollection is that canvassing has not been successful in the Corporation. I myself cannot recall at the moment any other instance where an officer has

been reinstated. I remember there have been appeals, but, besides this particular one, I cannot recall at the moment any other that was successful. If this right of appeal had been abused by the Corporation, I am sure there would have been innumerable instances forthcoming to prove it. So that, so far, the law does not seem to have operated with any prejudice, and I have sympathy with men whose position cannot be of any high class if they are only getting Rs. 100 a month, and I think that their means of support should not be taken away from them, and their families left impoverished, and their pension lost, on the fiat of the Chairman only. The position is one that requires to be considered with great care. I do hope that this particular amendment, in the interests of the poor subordinates, holding very low positions after all comparatively, may not be thrown out."

The Hon'ble BABU JATRA MOHAN SEN said:—"I entirely support this amendment. The remarks of the Hon'ble Member in charge of the Bill in opposing this amendment do not apply to the Corporation we are going to have, and more so in the face of the salutary provision in section 55A that we have passed to-day. If any Commissioner canvasses any vote as the Hon'ble Member suggested, I dare say such conduct would amount to misconduct or disgraceful conduct within the meaning of section 55A. With that safeguard I think the amendment should be carried. A servant in the employ of Your Honour's Government, drawing a salary of Rs. 20, has a right of appeal to Your Government, and I know instances in which they obtained relief. I know a case of a man who was drawing Rs. 20 a month, I believe, who was dismissed, and subsequently restored by Your Honour after two or three stages of appeal. I should strongly recommend that this amendment be accepted."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I feel that I ought not to record a silent vote upon this amendment. I am bound to confess that, although I am in sympathy with the principle which underlies the amendment, I find it difficult to accept it as it stands. I agree with the Hon'ble Raja Ranajit Sinha that there ought to be an appeal, but I think it would be the most impracticable thing in the world to give an appeal to the Corporation. If there is to be an appeal, I think the appeal ought to be to the General Committee, and I would ask the Hon'ble Member in charge of the Bill to consider whether if this motion were amended by altering the word 'Corporation' to 'the General Committee' it might not be accepted."

[*Mr. Baker; Mr. Bolton; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER:—"I shall be ready to consider that proposal. If this amendment is allowed to stand over, I shall be happy to consider it, and it can be taken up on Saturday."

The Hon'ble MR. BOLTON said:—"It is an acknowledged and well-known principle, always acted on, that the authority which appoints also dismisses, but this provision places the Chairman in a position in which hardly a single officer in India finds himself. There is absolutely no appeal from him. The Hon'ble Member in charge of the Bill mentioned the case of the Collector of Customs, who has the patronage of appointments of from Rs. 300 to Rs. 400 a month. From the Collector of Customs, however, appeals against dismissal lie to the Board of Revenue, and from the Board of Revenue to the Local Government. It is certainly necessary that there should be some appellate authority above the Chairman, but I agree with the Hon'ble Dr. Asutosh Mukhopadhyaya that the Corporation is not the proper authority, and I think also that the General Committee should not be constituted the authority. They are both co-ordinate authorities with the Chairman. The Chairman, say, has a number of applicants for an appointment, and selects and appoints A, as he is empowered to do. Should he afterwards find that A is not a suitable person, and removes him, is it reasonable that the Corporation or the General Committee should step in and say—'You shall not get rid of this man.' The Government should, strictly speaking, be the appellate authority over the Chairman, as it is in respect of the Engineer and Health Officer; but whether it would be willing to accept the burden of taking up these appeals is questionable. It is for the Hon'ble Member in charge of the Bill to consider the matter together with the proposal of the Hon'ble Dr. Asutosh Mukhopadhyaya that the General Committee should be the authority to receive appeals."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"If the matter was left to the General Committee, the case would be heard by the Appeal Sub-Committee, that is to say, by a smaller body presumably fully competent to take such action as the justice of the case might require."

The Hon'ble MR. BAKER:—"I absolutely object to any appeal being allowed to the Corporation. They are entirely unfit to deal with appeals in personal matters. But I will consider the suggestion of the Hon'ble Dr. Asutosh Mukhopadhyaya. It was in my mind when he suggested it that the appeal

[*Mr. Baker; Raja Ranajit Sinha, Bahadur, of Nashipur; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

would be heard by the Appeal Sub-Committee, of which I have spoken to him in connection with another matter."

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR said:—"I have no objection to this motion being postponed."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA proposed that "General Committee" be substituted for "Corporation" in the amendment brought forward by the Hon'ble Raja Bahadur of Nashipur.

The further consideration of the amendment was then postponed to the next meeting of the Council.

SECTION 73.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion for tho amendment of section 61C (*now* 69) having been lost, he, by leave of the Council, withdrew the motion standing in his name, that in section 65 (*now* 73), clause (*b*), the words within brackets from "other" to "61C" be omitted.

SECTION 77.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "in every two months," in line 2 of sub-section (*1*) of section 70 (*now* 77), the words "a month" be substituted.

He said:—"The original Bill provided that the meetings of the Corporation should be held once in three months, and then after considerable discussion in Select Committee we came to the conclusion that perhaps it would be as well to allow the Corporation to meet once in two months. The present law is that the Corporation should meet at least once a month, and, Sir, the pettiest municipality in the pettiest town in Bengal meets once a month. That is the Bengal Municipal Law. Every mufassal municipality must hold a meeting at least once a month, and, if it does not hold a meeting once a month, the Chairman circulates a notice stating the grounds on which the meeting has not been held. Therefore it comes to this, that in Bengal every municipality, be it the pettiest and most insignificant, must meet once a month, but the greatest municipality in the Province, the municipality of the capital of the Indian Empire, is not to meet except once in two months? I find strangely enough that this is the provision of the Madras Municipal Act. They meet once in two months. Section 68 of the Madras Act says 'there shall be six general meetings of the

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Oldham.*]

Commissioners in every year for the transaction of business;' that is to say, we are legislating upon the lines of the most backward Municipality in the Indian Empire. I hope, Sir, that having regard to the fact that the business of the Corporation will be of an important character, that it will have multifarious work and heavy responsibility, and that the financial concerns of the Municipality will be controlled by the Corporation, you will see your way to accede to this amendment, which provides that the meetings of the Corporation shall be held at least once a month."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has made no reference to the second clause of section 70 (*now* 77), which provides that 'the Chairman may, whenever he thinks fit, and shall, upon a requisition made in writing by any seven Commissioners, call a special meeting of the Corporation.' I am certain that, even if this section remained exactly as it is now, not the smallest inconvenience would result, and the only effect would be that if on any occasion there were not sufficient business to require the attendance of the Commissioners, they would not have to meet. However, Your Honour has considered this matter, and you have authorised me to say that you will accept the amendment of the Hon'ble Member."

The Hon'ble MR. OLDHAM said:—"I should like to say a few words to explain the history of the matter. The Bill as it came to us in Select Committee provided for a quarterly meeting. When we got up to section 70 (*now* 77), the representatives of the Corporation were able very easily to persuade us that those meetings should be increased. Then we let the matter stand. We thought it had been settled, and we went on developing the powers of the Corporation, increasing its business at almost every stop and not increasing the number of meetings. I think, if we had come back to this section, we should have arranged for monthly meetings."

The motion was then put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE'S amendment of section 70 (*now* 77) having been accepted, the Hon'ble MR. APCAR, by leave of the Council, withdrew the motion, standing in his name, that in section 70 (*now* 77), sub-section (*1*), for the words "two months" the word "month" be substituted.

He said:—"This motion is in exactly the same terms as the previous one.'

[*Babu Jatra Mohan Sen; Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble BABU JATRA MOHAN SEN moved that in sub-section (*2*) of section 70 (*now* 77) "five" be substituted for "seven".

He said:—"I am aware that the figure in the Bill, before it was submitted to the Select Committee for the second time, was 10, and it was reduced to 7, I believe, in consequence of the reduction of the number of the Commissioners. Although this reduction has been made, I venture to submit that the requirement has not been met. I shall take a concrete instance. Under the section as it originally stood 10 Commissioners from five wards could have demanded a calling of a meeting; but now as the number of Ward Commissioners has been reduced to one each, it will be necessary for seven Ward Commissioners to join. Therefore the privilege is curtailed, although the intention of the reduction seems to be to retain obviously a proportion to the reduction of the number of Commissioners; but this is the effect, and I would strongly recommend that five be substituted for seven. It would do no harm, although every harmless amendment need not be carried, but if it is erring, it is in the right direction. If five Commissioners express a desire to convene a meeting, I think their wishes ought to be acceded to."

The Hon'ble MR. BAKER said:—"It seems to me this is a pure question of arithmetic, and the Ward Commissioners have nothing to do with the matter. When the Corporation consisted of 75 Commissioners, it was the law that any 10 of them could call upon the Chairman to call a special meeting. When that number was reduced from 75 to 50, we made a proportionate reduction in the number of Commissioners who could make that call on the Chairman. Our reduction was unanimously agreed by all the members of the Select Committee, and I really think there is nothing further to be said."

The Hon'ble BABU JATRA MOHAN SEN said:—"I would only add in reply that five members are quite sufficient to ask for the convening of a meeting."

The motion was then put and lost.

SECTION 80.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that the last three lines of section 73 (*now* 80) be omitted.

[*Babu Surendranath Banerjee.*]

SECTION 81.

The Hon'ble BABU SURENDRANATH BANERJEE moved that—

(*1*) the words "or, in his absence, the Vice-Chairman or the Deputy Chairman, as the Chairman may direct," in lines 1, 2, and 3 of sub-section (*1*) of section 74 (*now* 81), be omitted;

(*2*) the words "Vice-Chairman and the Deputy Chairman" in lines 1 and 2 of sub-section (*2*) of section 74 (*now* 81) be omitted.

He said:—"The Bill provides that in the absence of the Chairman, and under his direction, the Vice-Chairman or the Deputy Chairman may preside, and on every such occasion the Vice-Chairman or the Deputy Chairman, as the case may be, shall vote, and when necessary shall have a casting vote. Now neither the Vice-Chairman nor the Deputy Chairman is a member of the Corporation, and it is an anomaly that gentlemen, who are not members of the Corporation, should be called upon at a minute's notice to act as President of a meeting of the Corporation. The President of a meeting of the Corporation should be a member of that body, and it does seem to me to be a sort of affront to the Corporation that either the Vice-Chairman or the Deputy Chairman should be called upon to preside at a meeting of the Corporation, when there are members of the Corporation who are willing and competent to preside. Am I to understand that, with the exception of the Chairman, there is no member of the Corporation fit to preside over that body; that the Vice-Chairman and the Deputy Chairman, who are strangers to the method of proceeding adopted at meetings of the Corporation, are better qualified to preside than members of the Corporation who are familiar with the procedure at such meetings? It is wholly illogical that the Vice-Chairman and the Deputy Chairman, who would be absolutely strangers to the Corporation, should preside. What I am trying to establish is that the members of the Corporation being familiar with the work of the Corporation, being familiar with the work transacted at meetings of the Corporation and the method in which business is done at such meetings, are better qualified to preside in the absence of the Chairman than the Vice-Chairman or the Deputy Chairman who are not members of the Corporation and are not familiar with the work and proceedings of the Corporation. In curing one anomaly, you are driven to another, and you are obliged to provide by way of explanation that for the purposes of this section the Vice-Chairman and the Deputy Chairman shall be deemed to be Municipal Commissioners.

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

I do not think that in any municipal law in the world you will find such a provision. In the absence of the Chairman, I think a member of the Corporation should preside over the deliberations of that body. I hope that, under the circumstances, the Council will see its way to accept these amendments."

The Hon'ble MR. BAKER said:—"I am authorised to say that we accept these amendments."

The motions were severally put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE's amendments in section 74 (*now* 81) having been accepted, the Hon'ble MR. APCAR, by leave of the Council, withdrew the following motions standing in his name:—

(*1*) that in section 74 (*now* 81), sub-section (*1*), the words "or in his absence, the Vice-Chairman or the Deputy Chairman, as the Chairman may direct," be omitted; and

(*2*) that in section 74 (*now* 81), sub-section (*2*), the words "the Vice-Chairman and the Deputy Chairman" be omitted.

SECTION 82.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the *explanation* to section 75 (*now* 82) be omitted.

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE's motion for the amendment of section 75 (*now* 82) having been accepted, the Hon'blo MR. APCAR, by leave of the Council, withdrew the similar motion standing in his name.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that, at the end of section 75 (*now* 82), paragraph 1, the words "from the beginning to the end of the meeting" be added.

He said:—"I cannot persuade myself to believe that the omission of these words is intentional. I think that in the interests of the Corporation these words, which find a place in section 84 (*now* 91), should be added."

The Hon'ble MR. BAKER said:—"The hon'ble mover of the amendment is quite right. That is the intention."

The motion was put and agreed to.

[*Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen; Mr. Baker.*]

SECTION 83.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 76 (*now* 83), line 2, "three" be substituted for "five."

The Hon'ble BABU JATRA MOHAN SEN moved that in section 76 (*now* 83), line 2, "three" be substituted for "five".

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"It has apparently been overlooked that in the original Bill, when there were 75 Commissioners, 18 formed a quorum at meetings of the Corporation, and five members could demand a poll. Under the new constitution introduced under the instructions of the Government of India, the Corporation will consist of 50 members, and 12 members will form a quorum; therefore the number of members entitled to demand a poll should also be reduced in proportion."

The Hon'ble BABU JATRA MOHAN SEN said:—"The amendment of which I have given notice is to the same effect. I think that the omission to reduce the number of Commissioners entitled to demand a poll is a pure oversight. In consequence of the reduction in the number of Commissioners, we have reduced the number to form a quorum from 18 to 12, and I think a corresponding reduction should be made in the number entitled to demand a poll."

The Hon'ble MR. BAKER said:—"This is not an oversight, but was done deliberately after consideration whether we should make a proportionate reduction in the number required for demanding a poll. It was considered undesirable to make it too easy to demand a poll, as it takes up time and is thereby an obstruction to business. If three members can be got to demand a poll, it will not be difficult to get five to do so."

The Hon'ble BABU JATRA MOHAN SEN, in reply, said:—"In this Council any one member has a right to demand a poll, and I don't see why three members should not be allowed to do so in a quorum of 18. A poll often exercises a healthy influence on the votes of the Commissioners."

The motions were then put and lost.

SECTION 86.

The Hon'ble BABU SURENDRANATH BANERJEE moved that—

(*1*) the following clause be inserted after clause (*b*) of section 79 (*now* 86):—

"(*c*) every contract made by the Chairman involving an expenditure of one thousand rupees or less shall be reported by him, within fifteen days after the same had been made, to the Corporation."

(*2*) the following clauso be inserted after clause (*b*) of section 79 (*now* 86):—

"(*c*) every contract made by the Chairman involving an expenditure of one thousand rupees or less shall be reported by him, within fifteen days after the same had been made, to the General Committee."

He said:—"Under the existing law and under this Bill also, the Chairman has power to enter into contracts of a value not exceeding Rs. 1,000, and his discretion is not fettered in any way; but when he has so entered into a contract my amendment proposes that he should report the fact to the Corporation; but if the Hon'ble Member in charge of the Bill objects to that, then I propose that he should report it to the General Committee. What I ask is that there shall merely be a report. I follow the precedent of the Bombay Act, but there the report is made not to the Corporation, but to the Standing Committee. I put it in the alternative form, so that if the Council do not accept the first view, then the report should be made to the General Committee. I hope that the last of these amendments at least will be accepted."

The Hon'ble MR. BAKER said:—"I cannot for one moment admit that these amendments are framed on the lines of the Bombay Act. In Bombay, in contracts up to Rs. 500, a report is not made to any one; from Rs. 500 to Rs. 5,000, a report is made to the Standing Committee; but under no circumstances is any reference made to the Corporation in Bombay, neither for sanction nor for report. And I object further. Under the present law, as the Hon'ble Member has told us, the Chairman spends money up to Rs. 1,000, and he reports to no one. Why should you tie his hands more strictly now? The Corporation must have approved the estimates: they must have been entered in the budget: all the Chairman has to do is to enter into a contract. Surely, the Chairman can be trusted to expend sanctioned sums of Rs. 1,000 without interference and without the necessity of making a report. It seems to me to be absolutely absurd to tie the Chairman's hands in the way here proposed, and it has no sort of resemblance to the system in force in Bombay.

[*Mr. Buckley; Babu Surendranath Banerjee.*]

The Hon'ble MR. BUCKLEY said:—"I also think this amendment is one which should on no account be accepted. I am prepared to go further than this Bill does in giving authority to the executive officers. When this matter came before the Select Committee, I tried to have greater powers vested in the Chairman, but I was defeated. I think the motion now brought forward illustrates the intense desire for centralisation which the Hon'ble Members display who are in favour of it. I desire to point out how very much greater are the powers entrusted by the Government to their officers in the matter of making contracts. An Executive Engineer in any part of India can accept a contract for Rs. 2,000, and, if the Local Government specially selects an individual Executive Engineer in whom they have confidence, he might enter into contracts to the extent of Rs. 5,000. In the Calcutta Municipality every contract of over Rs. 1,000 goes first to the officer in the position of an Executive Engineer; then it goes to the Engineer, then to the Chairman, and then to the General Committee, and the hon'ble mover of the amendment now wants it to go to the Corporation. It seems to me that red tape runs a very long way in the Municipality. In the Government service, a Superintending Engineer who occupies a position by no means so onerous as that of the Engineer of the Corporation can accept contracts up to Rs. 10,000, and, if he is an officer in whom the Local Government has confidence, he can accept contracts up to Rs. 20,000. There is a native gentleman in Calcutta who has the power of entering into contracts up to Rs. 2,000, and he carries them out with satisfaction. I cannot understand why the hon'ble mover of the amendment wants the Corporation to exercise control over such comparatively unimportant matters, and why he desires that the officers of the Municipality should have powers so much less than those which Government confers on its own servants in corresponding positions."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I don't mean that the Corporation shall exercise any control, but the Corporation being in charge of the financial concerns of the Municipality, and this being a matter of finance, a report should be made to the Corporation as regards these contracts. It will only be a report—the submission of a statement to the Corporation. It does not mean control or the exercise of any authority on the part of the Corporation over the action of the Chairman. All that I suggest is that the Chairman having entered into the contract should report the matter to the Corporation."

The motions were then put and lost.

[*Babu Surendranath Banerjee.*]

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the whole of line 5 in clause (*d*) of section 79 (*now* 86) be omitted; that the word "Corporation" be substituted for the words "General Committee" in line 8 of the same clause; and that clause (*dd*) of section 79 [*now* clause (*d*) of section 86] be omitted.

He said:—"The object of this amendment is to restore the present provision of the law. Under the existing law all contracts up to Rs. 1,000 in value are entered into by the Chairman, but all contracts above Rs. 1,000 and up to one lakh are entered into by the Corporation, and all contracts above one lakh are also entered into by the Corporation but with the sanction of the Local Government. That is the existing law. What is proposed to be substituted for that law? The Bill provides that all contracts up to Rs. 1,000 shall be entered into by the Chairman, which is the present law; but that all contracts above Rs 1,000 and up to Rs. 10,000 must be entered into by the General Committee. The power of the Corporation in respect of contracts between Rs. 1,000 and Rs. 10,000 is withdrawn, and the authority of the General Committee is substituted. All contracts above Rs. 10,000 and up to one lakh and all contracts above one lakh are to be entered into by the Corporation, the latter with the sanction of the Local Government. I cannot understand why there should be any change in the law relating to contracts, and I must express my very grave apprehension as to contracts being made by a small body like the General Committee. You don't know what the constitution of the General Committee will be—what the *personnel* will be. We hope it will be a fairly representative body, but our anticipations may not be fulfilled, and I must say, with the experience I have had of the Corporation, that it is not safe to entrust the final decision, in regard to contracts of the value of from Rs. 1,000 to Rs. 10,000, to such a small body as the General Committee. Perhaps it will be more strictly correct to say that it will be safer to entrust it to the larger than to the smaller body. Has the present system worked badly? I have not heard the Hon'ble Member in charge of the Bill say so. Large contracts involving the expenditure of lakhs of rupees have been entered into by the Corporation, and I do not know that they have given rise to any scandals. The Corporation has done its duty well, and I hope the Council will see its way to keep the law in its present state."

[*Mr. Baker; Mr. Apcar; Mr. Buckley.*]

The Hon'ble MR. BAKER said:—"The hon'ble mover of the amendment asks why we are changing the law. Under the present law the Chairman can enter into contracts up to Rs. 1,000 in value, and contracts in excess of that sum are entered into by the Corporation, and he wishes to know why we are making any change in the law. The reason is the constitution of a system of co-ordinate authorities by which we are interposing the General Committee as a co-ordinate authority between the Chairman and the Corporation, a working body standing midway between the two. Therefore, it is only logical that, up to a certain amount, the sanction of the General Committee should be sufficient, and that it should not be necessary in such cases to obtain the sanction of the Corporation. In Bombay this system is carried much further; the power of entering into contracts extends no further than the Standing Committee. No contract, however large, requires the previous sanction of the Corporation The Hon'ble Member also said that we are unable to see what the composition of the General Committee will be, and, therefore, it will be dangerous to entrust the power of entering into contracts to that body. We certainly cannot see into futurity, but we may be sure that the General Committee will consist of the pick of the Corporation; and if the composition of the Corporation is good, the composition of the General Committee will be better. If the General Committee is bad, the Corporation will be worse. Therefore, in either case, it will be better to give this power to the General Committee."

The Hon'ble MR. APCAR said:—"I desire to endorse every word of the warning given by the hon'ble the mover of the amendment, and I have, on a former occasion, expressed the apprehension I have of the danger there is in leaving the decision of entering into these contracts in the hands of a small body working with closed doors. I am deeply impressed with the conviction that it is infinitely better that such matters should be decided in the open light of day in a public meeting, and I am of opinion that the smaller the body, the greater the danger. I fear, very seriously, that the result will be of a most mischievous character to the rate-payers."

The Hon'ble MR. BUCKLEY said:—"Both the Hon'ble Members who have addressed the Council in support of this amendment have warned us in solemn language of the danger of giving the power of making contracts to the General Committee. In reply to those warnings, I wish to say that in the course of an experience of thirty years, more or less, I have had a great deal to

do with the making of contracts, and I can only recall two or, possibly, three cases of any possible suspicion against officers concerning the making of contracts. In the Public Works Department tenders are accepted or rejected, and contracts are often entered into by a single officer. If the General Committee is to be doubted and distrusted in the way these gentlemen represent, I am unable to imagine what tho cause can be, or in what way the dangers which they apprehend can be avoided."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"We don't distrust the General Committee, but we say it is much safer to entrust the power of making contracts to a larger body than a smaller one. I hope my anticipations may not be fulfilled as regards the *personnel* of the General Committee. But it is all a jump into the unknown, and we ought not to give up a system which has worked well for an untried system which may not work well, and I submit that, as far as financial matters are concerned, the authority of the Corporation ought to be maintained. I hope the anticipations of the framers of the Bill may turn out to be correct. It is possible that our dark vaticinations may prove to be false. I hope they may be false; but as legislators we are not justified in leaving the sure path, guaranteed by experience, and embark upon an unknown venture. In matters of this kind it is better to follow the old lines, when those lines have led to success. It is a warning which I feel it my duty to give. You are abandoning the tried and beaten path, a sure path sanctified by experience, and you are adopting an unknown path which may lead to results that are unknown. I entirely object to any comparison between the Bombay and the Calcutta systems in this respect. [The Hon'ble MR. OLDHAM:—"The system has worked well in the Calcutta Port Trust."] The authority of the Port Trust is supreme. The authority of the Corporation is not supreme. If the making of contracts was confined to a body like the Port Trust, and if the authority of that body was supreme, I would not object. The Corporation would then have the power of supervision and of revision; but here the final decision in regard to contracts is given to the General Committee. The Port Trust has supreme power; therefore I don't think the analogy holds good. I feel very strongly in this matter, and I am anxious for the purity of the Corporation. The weakest point in the Corporation is the making of contracts; we ought to be specially on our guard with regard to this particular matter, and we should make no change which might imperil the purity of the administration for which all of us are so solicitous. If you make a change

in the law you take a big jump into the unknown, while you abandon the well-known beaten path, which has hitherto preserved the purity of the Corporation."

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 79, clause (*d*) [*now* section 86, clause (*c*)], "five hundred" be substituted for "one thousand" and "five thousand" for "ten thousand".

He said:—"My following amendments might be taken with this one, as they all relate to the same thing: namely, that in section 80 (*now* 87), sub-section (*2*), lines 3 and 4, "five hundred" be substituted for "one thousand"; and that in section 81 (*now* 88), sub-section (*1*), line 5, "five hundred" be substituted for "one thousand". The object of the amendments which I have now the honour to propose is to curtail the power of the General Committee, and also to enlarge it in matters of contract. The present section requires the sanction of the General Committee when the contracts refer to sums of from Rs. 1,000 to Rs. 10,000. My proposal is that such sanctions should be required in the case of contracts of from Rs. 500 to Rs. 5,000. This, I think, is a matter of convenience and necessity. I do not know what the state of things is at present with regard to making of contracts, but I find that the

Corporation recommend the change I propose, and I believe their recommendation is based on past experience. With these observations, I commend these amendments to the favourable consideration of the Government."

The Hon'ble MR. BAKER said:—"I can add nothing to what I have already said on this subject. This Bill, as the Hon'ble Mr. Buckley pointed out quite correctly just now, restricts the powers of the General Committee unduly, and it was my hope that in the Select Committee the powers of the General Committee would be extended to Rs. 25,000. But the Select Committee did not agree, and the figure was retained at Rs. 10,000. The Hon'ble Member now wishes to reduce it to Rs. 5,000.

"I submit that all these attempts to reduce the amounts up to which contracts may be made by the Chairman and the General Committee, respectively, are steps in the wrong direction."

The motion was put and lost.

SECTIONS 87 AND 88.

The Hon'ble BABU JATRA MOHAN SEN also moved that in section 80 (*now* 87), sub-section (*2*), lines 3 and 4, "five hundred" be substituted for "one thousand".

The motion was put and lost.

The Hon'ble BABU JATRA MOHAN SEN also moved that in section 81 (*now* 88), sub-section (*1*), line 5, "five hundred" be substituted for "one thousand".

The motion was put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "(where necessary) instead of the Chairman's seal," in lines 6 and 7 of sub-section (*1*) of section 80 (*now* 87) be omitted.

He said:—"I cannot understand the object of these words in this section, and therefore I move that they be omitted. I do not see that any provision is made anywhere in the Bill for there being a seal called 'the Chairman's seal'."

The Hon'ble MR. BAKER said:—"It means the Chairman's private seal, the exception being that the seal of the Corporation is used instead of the Chairman's own seal. It means the seal which the Chairman would use as a private individual."

[*Mr. Apcar; Mr. Handley; Mr. Bolton; the President; Babu Surendranath Banerjee.*]

The Hon'ble MR. APCAR said:—"I have an amendment in exactly the same terms. I thought the Corporation is going to become, to use a phrase that the Hon'ble Member has made classic, a 'one man show,' and that the Chairman is to have a seal of his own. There is a definite meaning to the term 'seal of the Corporation,' and, therefore, I think, it is dangerous to use such a term in the Bill as it is proposed to omit."

The Hon'ble MR. HANDLEY said:—"I see no objection to these words being retained. I do not know what has disturbed the equanimity of my hon'ble friends. There may, perhaps, be some redundancy, but every gentleman has a seal of his own which he can use in any contract on which he likes to use it. If the words 'where necessary' are not put here, it may be necessary to put that seal to every contract, otherwise the contract would not be legal."

The Hon'ble MR. BOLTON said:—"The words are superfluous and should clearly be omitted."

The Hon'ble THE PRESIDENT said:—"It would meet the Hon'ble Member's views if the words 'instead of the Chairman's seal' in line 7 are omitted."

The Hon'ble BABU SURENDRANATH BANERJEE proposed that only the words "instead of the Chairman's seal" should be omitted.

The motion to omit the words "instead of the Chairman's seal" was put and carried.

The Hon'ble BABU SURENDRANATH BANERJEE's motion for the amendment of sectiod 80 (*now* 87) having been carried, the Hon'ble MR. APCAR, by leave of the Council, withdrew the motion standing in his name, that in section 80 (*now* 87), sub-section (*1*), the words "(where necessary) instead of the Chairman's seal" be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the following motions standing in his name:—

(*1*) that the words "on behalf of the Corporation" be inserted between the word "Committee" and the word "shall" in line 6 of sub-section (*1*) of section 81 (*now* 88);

[*Babu Surendranath Banerjee; Mr. Apcar.*]

(*2*) that the word "Corporation" be substituted for the words "General Committee" in line 1 of sub-section (*2*) of section 81 (*now* 88), and that the words "subject to the provisions of clauses (*dd*) and (*e*) of section 79 [*now* clause (*d*) of section 86]" in lines 3 and 4 of sub-section (*2*) of section 81 (*now* 88) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "Committee" in line 6 of sub-section (*1*) of section 81 (*now* 88), the following be inserted:—

"in the case of all contracts exceeding one thousand rupees and not exceeding ten thousand rupees, and the Corporation in the case of all contracts exceeding ten thousand rupees."

The Hon'ble MR. APCAR moved that—

(*1*) in section 81 (*now* 88), sub-section (*1*), after the words "General Committee" the words "on behalf of the Corporation" be inserted;

(*2*) in section 81 (*now* 88), sub-section (*2*), the words "subject to the provisions of clauses (*dd*) and (*e*) of section 79 [*now* clause (*d*) of section 86]" be omitted, and at the end of the sub-section the following be added:—

"Provided that, where the contract involves an expenditure exceeding ten thousand rupees, the action of the General Committee under this section shall be subject to the approval of the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think the Hon'ble Member in charge of the Bill will accept this amendment. Under sub-section (*1*) of section 81 (*now* 88), the General Committee gives notice by advertisement in respect of all contracts, whether they are within the jurisdiction of the General Committee or of the Corporation. The Corporation will enter into contracts which lie within their jurisdiction. The Hon'ble Member in charge of the Bill may say that the issue of advertisements is not of great importance, but we have found by experience that they are of the greatest possible importance, and therefore the issue of advertisements ought to be given to the authority that will have the making of the contracts. To the General Committee ought to belong the power of issuing advertisements and of accepting tenders in respect of contracts which by law they are empowered to enter into. To the

Corporation ought to belong the power of issuing advertisements and accepting tenders in respect of contracts which fall within the jurisdiction of the Corporation. This is a proposal which I think is perfectly fair and reasonable and ought to be allowed. It falls in with the principle which my hon'ble friend the Member in charge of the Bill has himself laid down. There ought to be no overlapping of functions, and this will be avoided by giving to the Corporation complete authority and responsibility in respect of contracts with which it has to deal, and similarly by giving to the General Committee complete authority and responsibility in respect of contracts within its jurisdiction."

The Hon'ble MR. BAKER said:—"I regret I cannot agree to this amendment. I cannot see that there will be any overlapping of functions. The interests of the Corporation are safeguarded by this section read with sections 79 and 81 (*now* 86 and 88). When a contract is to be entered into, the General Committee will issue advertisements and call for tenders. If the contract is for a sum less than Rs. 10,000, the acceptance of a tender by the General Committee will be final. If it exceeds Rs. 10,000, then the General Committee will have to send the tender which they propose for acceptance, with possibly other tenders, to the Corporation for approval, and the contract cannot be entered into unless and until the Corporation have accepted a tender. That, I submit, is the only way of safeguarding the interests of the Corporation. What would you think of a private Company which passed a rule that contracts above a certain sum shall only be entered into at a general meeting of the shareholders of the Company? The acceptance of contracts is a matter for the Board of Directors of the Company to deal with."

The Hon'ble MR. APCAR said:—"If the Council will refer to my amendment on the same section 81 (*now* 88), sub-section (*1*), which refers to the same matter as that now under discussion, they will see that I propose a middle course, namely, that, after the words 'General Committee' the words 'on behalf of the Corporation' be inserted. I think it will be better to have the whole discussion at once. It appears to me that whatever is done by the General Committee in such cases should be done on behalf of the Corporation and not in an entirely independent way."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I regret I am not able to follow the Hon'ble Member in charge of the Bill in the line of

argument he has adopted. He has emphasised the fact that there are to be co-ordinate authorities and that their powers and functions are to be kept apart. But I find that every now and then those powers and functions get mixed up. There is the General Committee and there is the Corporation, but my hon'ble friend says there must be a mixing up of their functions in the matter of contracts. My hon'ble friend argued as if the General Committee was a sort of working body of the Corporation. I admit that it is so now, but it will not be so when this Bill is passed. He asked what would it be if the shareholders of a Company were called together to open tenders and enter into contracts? That, I submit, is quite a different thing. The General Committee is now the working body of the Corporation, but under this rule it will be a distinct and separate authority. The Corporation will not be able to act for the General Committee, nor will the General Committee be able to act for the Corporation. I submit that there is a positive danger in the General Committee opening tenders and sending them on to the Corporation. The present practice as to the opening of tenders inspires the fullest confidence, because tenders are now opened by a responsible officer under certain safeguards, but it would be dangerous if tenders were opened by a body which has not the final decision, and which has to transmit them to a superior authority. You do not know what malpractices may take place. Tenders may be opened one day and may be forwarded to the Corporation a week after; other tenders might be put in in the meantime. Malpractices are bound to take place if the suggestions of the Hon'ble Member in charge of the Bill are accepted. I speak with knowledge and experience. It is of the utmost importance that the decision with regard to the tenders should be made then and there. The practice now is for the Vice-Chairman to open tenders and keep them under lock and key and bring them before the General Committee, and then they are discussed and disposed of at once. am perfectly certain that the proposed change will lead to malpractices. I am anxious that there shall be no malpractices. I accept the principle of separation of duties. My amendment accepts completely the principle of co-ordinate authorities. The General Committee has to deal with certain contracts; they have to issue advertisements; they have to call for tenders; they have to open the tenders and accept the contracts. The Corporation have also to consider certain tenders and accept contracts. There ought to be a complete separation of functions with the result that you will be able to bring home responsibility to the Corporation or to the

General Committee, as the case may be. That seems to me to be the logical sequence of the principle laid down, and I cannot understand my hon'ble friend's hesitation to continue to follow his own principle to its legitimate conclusion. It is my firm conviction that if this amendment is rejected and my hon'ble friend's suggestions are accepted, the result will be disastrous."

The Hon'ble MR. BOLTON said:—"The drafting of this section seems to me defective. The sub-section says:—

'The General Committee shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provisions of clauses (*dd*) and (*e*) of section 79, any of the tenders so made which appears to them, upon a view of all the circumstances, to be the most advantageous, or may reject all the tenders so made.'

"Nothing is here said of any action which the Corporation is to take. Clauses (*dd*) and (*e*) of section 79 [*now* clauses (*d*) and (*e*) of section 86] restrict the action of the General Committee under this section, but they do not empower the Corporation to take up the tenders and deal with them. The Hon'ble Member in charge of the Bill proposes that the Corporation shall dispose of the tenders relating to contracts within their cognisance, but not open them. There is, however, no provision in this section empowering them to deal with any contracts. The omission should be rectified. I also agree that, if the Corporation deals with tenders, it should open them. This is the obvious and ordinary arrangement."

The Hon'ble MR. OLDHAM said:—"I regret that I am unable to follow either the Hon'ble Mr. Bolton or the Hon'ble Babu Surendranath Banerjee. I speak with experience of the manner in which the General Committee deals with these matters. I think my hon'ble friend Mr. Bolton is mistaken in saying that the Corporation has to deal with tenders. The sole power of the Corporation is a sanctioning power. It is only in one way that the Corporation has co-ordinate powers as regards executive duties. It rests entirely in the final control in giving their sanction to the acceptance of tenders. It will be mixing up the powers of the Corporation with those of the General Committee if they are to open tenders, which is an executive duty. I never heard of this misunderstanding until now."

The Hon'ble MR. BOLTON said:—"There is no misunderstanding on my part."

[*Mr. Oldham; Mr. Buckley; Mr. Baker.*]

The Hon'ble MR. OLDHAM said:—"I did not understand why my hon'ble friend thinks the Corporation should deal with the tenders. The Corporation has to sanction certain contracts, but it has not to deal with the tenders. Nor do I understand what is the point of danger in the passage of these documents from one body to another. I probably misled my hon'ble friend by saying that the tenders are opened by the General Committee. The Vice-Chairman opens all their tenders, but in the case of another Committee to which I have the honour to belong (the Loans Committee), the tenders, which are for very large sums, are opened by the members of the Committee. But I do not see what danger there can be from the tenders being opened by the General Committee if the acceptance of the tenders receives the sanction of the Corporation. I do not know of any danger."

The Hon'ble MR. BUCKLEY said:—"I have listened with the most utter astonishment to what the hon'ble mover of the amendment said. The procedure, as I understand it, is extremely simple. When the Hon'ble Member first spoke, I thought his objection to the present section was that the Corporation have not the power to order the publication of advertisements in the newspapers; but obviously that is not what the Hon'ble Member means. The procedure will be this. The advertisement will be issued by the executive authority; then tenders will be received; the tenders will be opened by the General Committee; they will be entered in a general statement or form, as is done in the Public Works Department; then the tenders, together with that statement, will be submitted by the Chairman for the approval of the Corporation if they have to deal with the matter. How they can possibly be tampered with I cannot understand; but, if there is that danger, there must be something very wrong indeed in the proceedings in the office of the municipality. I have never heard of such a thing as any forgery or fabrication connected with the documents in the Public Works Department. I regret I have not been able to follow the Hon'ble Mr. Bolton. I cannot agree with him that this section is defective. It was considered by the Select Committee, and it appears to me to be a most simple matter."

The Hon'ble MR. BAKER said:—"I can add very little to what I have already said. The procedure will be that tenders will be received in the first instance by the General Committee; they will be opened by the General Committee; the tenders will then be entered in a schedule, and the General Committee

[*Mr. Baker; Mr. Bolton; Dr. Asutosh Mukhopadhyaya; Mr. Apcar.*]

will select one for acceptance. If the amount is in excess of Rs. 10,000, the whole matter, including the tenders, will be sent to the Corporation for their approval. That is the answer to what the Hon'ble Mr. Bolton said. It seems to me, as has been pointed out by the Hon'ble Mr. Buckley and the Hon'ble Mr. Oldham, that the section is perfectly clear."

The Hon'ble MR. BOLTON said:—"The action of the Corporation is limited by the proviso, but there is no provision empowering the Corporation to take up the tenders. There are members of the legal profession here who will be able to give their opinion."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The Hon'ble Member in charge of the Bill is reading into the section things that are not to be found there. The difficulty in the section is that it deals only with cases in which the General Committee is empowered to deal with tenders, but it makes no mention of tenders with which the Corporation is entitled to deal. It only provides that the General Committee is competent to deal with tenders which come within the scope of their authority. By putting in the words 'subject to the provisions of clauses (*dd*) and (*e*)' [*now* clauses (*d*) and (*e*)] you exclude certain matters from the control of the General Committee, but that does not authorise the Corporation to deal with such matters; and I think the words proposed in the amendment now under consideration ought to be inserted with a view to authorise the Corporation to deal with them."

The Hon'ble MR. BOLTON said:—"I understand from the Assistant Secretary that he thinks the section wrong if the Corporation is to dispose of tenders relating to contracts within their powers. The Hon'ble Member in charge of the Bill said that the General Committee will select one tender, and then present it to the Corporation with a general statement of the tenders received. It should not rest with the General Committee to select any tender which must go to the Corporation. That would be a work of supererogation, since the Corporation would not be bound by their selection. I would suggest that the consideration of this section be postponed until the next meeting of the Council."

The Hon'ble MR. APCAR said:—"I fully endorse all that the Hon'ble the Chief Secretary to Government has said. I think the drafting of the section is defective if the intention of the Government is as has been explained by the

Hon'ble Member in charge of the Bill, and I would ask my learned friend the Secretary to look also at the proviso that I propose to insert to sub-section (*2*) of section 81 (*now* 88)."

The Hon'ble MR. BAKER said:—"I have no objection to the consideration of this section being postponed."

The Hon'ble MR. BOLTON said:—"I should like the Hon'ble Member in charge of the Bill to explain why he objects to the modification which has been suggested."

The Hon'ble MR. BAKER said:—"I have explained twice already what I understand to be the intention. The General Committee will issue advertisements, receive tenders, and enter the details of them in a schedule, and will select one tender for acceptance by the Corporation, and, in sending up the tenders, they will send everything connected with the tender. There is no need to put into the Bill all these details. The intention is that the General Committee should open the tenders and consider them."

The Hon'ble MR. APCAR said:—"It is as if it is intended that the Corporation has only to say 'yes' or 'no', to endorse or to reject. That is what I understand is the effect of what is proposed. I propose to omit the reference to clauses (*dd*) and (*e*) [*now* clauses (*d*) and (*e*)], and to introduce a proviso to the effect that, where the contract involves an expenditure exceeding Rs. 10,000, the action of the General Committee under this section shall be subject to the approval of the Corporation. As the section is worded, it will simply give the Corporation power to accept a certain tender or not, without giving them the opportunity of dealing fully with the matter. As the Bill is framed, it means that they will not have any power but to enter into a contract or to refuse to do so. I desire to give the Corporation the power of considering the conditions and the specification and having full responsibility with regard to the whole contract."

The Hon'ble MR. BUCKLEY said:—"Surely that is meant by sub-section (2) of section 81 (*now* 88), when it says that the General Committee may accept any of the tenders which appears to them upon a view of all the circumstances to be advantageous, subject to the provisions of clauses (*dd*) and (*e*) of section 79 [*now* clauses (*d*) and (*e*) of section 86], which means that they are to send the tenders to the Corporation."

[*Mr. Bolton; Mr. Apcar; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble Mr. BOLTON said:—"Section 79 (*now* 86) does not provide for sending tenders to the Corporation."

The Hon'ble Mr. APCAR said:—"I hope it will not be understood that I accept what the Hon'ble Mr. Buckley said in his construction of the section."

The further consideration of these amendments was then postponed till the next meeting of the Council.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 81 (*now* 88), sub-section (2), the words "for reasons which shall be recorded in their proceedings" be added.

The consideration of this amendment was postponed till the next meeting of the Council.

The Council was adjourned to Saturday, the 16th instant.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal, Legislative Dept.

Reg. No. 780G—300—11-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Saturday, the 16th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. F. HANDLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble MR. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

CIVIL COURTS' AMINS BILL.

The Hon'ble MR. BOLTON, in moving that the Bill to repeal the Civil Courts' Amins Act, 1856, in Bengal be taken into consideration at the meeting of the Council to be held on Tuesday, the 19th instant, observed that he desired to add nothing on the present occasion to the remarks made by him when asking leave to introduce the Bill.

The motion was put and agreed to.

[*Mr. Baker; Babu Surendranath Banerjee.*]

THE CALCUTTA MUNICIPAL BILL.

SECTION 25.

The Hon'ble MR. BAKER moved that the following sub-section be added to section 28A (*now* 25),* namely:—

"(4) The Vice-Chairman shall not be removed from his office, otherwise than at the end of the term for which he was appointed, except in accordance with a resolution which has been passed at a special meeting and in favour of which not less than two-thirds of the Commissioners present at the meeting have voted."

He said:—"I have been in communication with the Hon'ble Babu Surendranath Banerjee with reference to the terms of amendment No. 12 of the Supplementary List of Business, and he informs me that if I make a slight modification in the terms of the amendment which comes first in the seventh list of business to-day, he will accept it. I have accordingly modified the amendment, which will now run in the terms I have just read.

"The Hon'ble Member accepts that wording, and this will make it unnecessary for him to move his amendment No. 12. His amendment was inconvenient, partly because it assumed that the Vice-Chairman was a municipal officer, which is not the case, and partly because under section 28J, sub-section (6) [*now* section 35, sub-section (6)], it is provided that the Vice-Chairman and Deputy Chairman shall be subject to the same liabilities, restrictions and conditions as the Chairman, and therefore both of these officers are liable to removal in the same way as the Chairman under section 10 (*now* 11) of the Bill. The object of the Hon'ble Member's amendment was to ensure that there should be no change in the present law with respect to the Vice-Chairman. Under the present law the Vice-Chairman cannot be removed by the Local Government at its discretion. He can only be removed on the vote of a two-thirds majority of the Commissioners, or at the end of the time for which he was originally appointed. The effect of the amendment I have now read will be to retain that state of things."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If the effect of the amendment as has been explained is to keep the present law intact, I have much pleasure in accepting it, and I withdraw my amendment."

The motion was put and agreed to.

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets wherever the new numbering differs from the old.

[*Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Baker.*]

SECTION 70.

The last motion having been agreed to, the Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion standing in his name that the following proviso be added to section 62 (*now* 70):—

"Provided also that in the case of the Vice-Chairman or the Deputy Chairman he shall not be removed except by a resolution of the Corporation in favour of which not less than two-thirds of the Commissioners voting have voted."

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, moved the following amendment standing in the name of the Hon'ble Dr. Asutosh Mukhopadhyaya, namely:—

that to section 62 (*now* 70) the following proviso be added, namely:—

"Provided also that any other municipal officer or servant in receipt of a salary of more than one hundred rupees *per mensem* who is dismissed may appeal to the General Committee, whose decision shall be final."

The Hon'ble MR. BAKER said:—"I intimated at the last meeting of the Council when the Hon'ble Dr. Asutosh Mukhopadhyaya suggested that the General Committee should hear these appeals that I would be prepared to consider that suggestion. I have done so, and I think the suggestion is a good one. I consulted Mr. Bright, the Chairman of the Corporation, and he told me not only that he agrees with the amendment, but that he welcomes it. He feels that the responsibility of dealing with the dismissal of servants drawing Rs. 100 per month or upwards is too great to be borne by him singly, and he would greatly prefer that an appeal should lie to some higher authority. Therefore I accept the amendment which has been moved by the Hon'ble Raja Bahadur."

The motion was put and agreed to.

The last amendment having been adopted, the Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, by leave of the Council, withdrew the motion standing in his name that after the words "Local Government," at the end of section 62 (*now* 70), the following be added:—

"and that in case of the dismissal of other Municipal officers or servants drawing a salary of one hundred rupees or upwards *per mensem* an appeal shall lie to the Corporation."

[*Mr. Baker.*]

SECTION 88.

The Hon'ble MR. BAKER moved that for sub-section (*2*) of section 81 (*now* 88), the following sub-sections be substituted, namely:—

"(*2*) In every case in which the acceptance of a tender would involve an expenditure exceeding ten thousand rupees, the General Committee shall place before the Corporation the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) which they recommend for acceptance.

"(*3*) In every case in which the acceptance of a tender would involve an expenditure exceeding one lakh of rupees, the Corporation shall submit to the Local Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) which they recommend for acceptance.

"(*4*) Neither the General Committee, the Corporation nor the Local Government shall be bound to accept any tender which has been made; but any of those authorities may, within the pecuniary limits of their respective powers, as prescribed in section 79, sub-section (*1*) [*now* section 86, sub-section (2)], accept any of such tenders which appears to it, upon a view of all the circumstances, to be the most advantageous, or may reject all the tenders submitted.'

He said:—"This amendment has been framed in communication with the Hon'ble Mr. Apcar. The opinion was expressed on the last occasion the Council met that section 81 (*now* 88) did not make it quite clear that the tenders, including estimates, conditions and specifications, were to be submitted by the General Committee to the Corporation when the amount of the contract exceeded Rs. 10,000. It was thought by some Hon'ble Members that the General Committee would only have to submit the particular tender which they recommended for acceptance. That was not the intention. But, as these doubts have been expressed, it is desirable that the section should be worded so clearly as to prevent any possibility of misunderstanding. With that object, the Secretary has drafted these three clauses to take the place of sub-section (*2*). This morning since I came into the Council I have had an opportunity of speaking to the Hon'ble Babu Surendranath Banerjee on this point, and he tells me that while he agrees to the alteration I have proposed with regard to specifications and estimates, he feels some doubt about clause (4). He doubts whether the Local Government ought to accept any tender. Well, Sir, I think to put it in a homely way, that what is sauce for the goose is sauce for the gander. If the intention of the two sections 79 and 81 (*now* 86 and 88) is that the sanctioning authority is to receive the tenders, we cannot apply that in the case of the Corporation and refuse it to the Local Government. The position is exactly the

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Bolton.*]

same, except that the Corporation can only sanction up to one lakh of rupees, while the Local Government sanctions contracts for sums in excess of that figure. Therefore, I think the procedure should be precisely the same in the two cases."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am very sorry to raise a note of discord after my hon'ble friend has proceeded so far and has made suggestions which meet us half way. My difficulty is this: as I explained to the Hon'ble Member this morning, the Government is not a municipal authority: the Government is a supervising authority. Matters which have been sanctioned by the Corporation come up before the Government for confirmation, and the Government either confirms those matters or vetoes them. But here under clause (4) my hon'ble friend invests the Government with an active share in regard to municipal contracts. The Government becomes a sort of municipal authority under clause (4). Sir, the present law is that contracts above one lakh of rupees are laid before the Government, and the Government may sanction the contracts or veto them as it pleases. The Corporation sanctions the contracts subject to the approval of the Government. The Government is a supervising authority, and I believe that that was the intention of the framers of this Bill. I think it was their intention that no further power should be given to the Government in regard to the determination of contracts than what the Government now possesses under the Act. But you are now taking a step beyond that. Instead of Government merely vetoing or merely supervising, the Government places itself in the position of an active municipal authority in regard to a particular class of contracts. I do not think this is a position which the Government ought to assume in regard to any municipal matter. I think the position of the Government ought to be the position of the supervising authority. But that position is changed if the Government actively interfere with the ordinary work of the Municipality. Such a modification of the law seems to me to ignore the fundamental principles which underlie the Bill. Therefore, I think it would be as well to modify the section upon these lines. That is my difficulty, and I explained it to my friend; but he is unwilling to proceed further."

The Hon'ble MR. BOLTON said:—"On the last occasion I pointed out the necessity for the change now proposed in this section, because, if the Corporation is to enter upon contracts of a certain value, it is necessary that they

should examine the tenders, and also, as has now been added by the Hon'ble Mr. Baker, the specifications, conditions and estimates. For the same reason the Government must examine the tenders, specifications, conditions and estimates of any contract which it lies with it to approve or veto. It is perfectly obvious that the Government, even as the section now stands, could not possibly exercise its power of veto, unless it does so blindly, without examining all the papers upon which the proposal to contract for a sum exceeding a lakh of rupees has been made by the Corporation. These papers must come before it, in order that it may exercise in a reasonable and proper way its control over such contracts."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It is the acceptance, of the tender by the Government that I object to."

The Hon'ble MR. APCAR said:—"In the list of business there is a motion, No. 37*, which stands in my name. That was inserted with a view to giving an opportunity to the Corporation of seeing and considering those very points which now the Hon'ble Member in charge has acceded in his own amendment. Therefore, if the amendment is passed in the form which now the Hon'ble Member's amendment assumes, it will not be necessary for me to move the amendment that I now refer to. I thought it would be advisable to have that proviso which is now incorporated in sub-sections (*2*), (*3*) and (*4*) of the amendment, because the Corporation, having the power to consider these tenders, ought to be in a position also to criticise the conditions, specifications and estimates. Otherwise, the Corporation would be compelled, possibly, to reject tender after tender, because they did not conform with their wishes as to what they might think would be required. So that I think the present amendment is a wise alteration, if I may say so, because it will avoid possible friction in the working of this Bill, and, as I understand my hon'ble friend, it really only expresses that which was his intention in regard to this section from the first.

"Then with respect to what has fallen from the Hon'ble Mr. Bolton, I am quite at one with him in thinking that it is advisable that the Government should have the opportunity of giving their assistance to the Corporation in any criticism relating to the specifications and estimates,

* i.e., that in section 81, sub-section (*1*) [*now* section 88, sub-section (*1*)], *after* the words "General Committee" the words "on behalf of the Corporation" be inserted.

but where I join issue with the Hon'ble Member is upon the question of the Local Government having the power of accepting tenders. I do not think the Local Government should have this power of accepting tenders. I do not consider that is what should be allowed by law. I do not know if that is the intention, because, as my hon'ble friend to my left (Babu Surendranath Banerjee) has well said, it would constitute the Government a municipal authority, and it would almost be necessary to place it on the list of the various municipal authorities. I do not know if it is really the intention to give that power to the Local Government, so that, after the Corporation have rejected any tender, the Local Government may accept that tender and force it upon the Corporation. I think that is going perhaps beyond what is the intention of the Bill. I am not prepared to say that it is really intended that the Local Government shall thus have the power of setting aside the action of the Corporation who are charged with the power of the purse: but, if it is so, it is obvious that the powers given to the Corporation under the scheme of the Bill will be in a very serious degree encroached upon. They would not have that discretion left to them which it is, as I understand it, the intention of Government to permit them to have. So, if it is the desire now to press this amendment in any form, with the intention of giving authority to the Local Government to upset the resolutions of the Corporation with regard to tenders, I much regret that I must enter my protest against it."

The Hon'ble MR. BUCKLEY said:—"I would only make one brief remark about the words the Hon'ble Mr. Baker brought in this morning. He wishes to have the words 'conditions, specifications and estimates' inserted. I have some doubt whether the word 'estimate' ought to go in there, because under clause (3) the Local Government would have had these estimates before. It does not seem necessary that they should be sent to them a second time with the specifications and conditions. The same thing would apply to the Corporation, and all that seems necessary is that the specifications and conditions should be mentioned, but not the estimates."

The Hon'ble MR. BAKER said:—"Would not the estimates be returned to the General Committee or the Corporation, as the case might be?"

The Hon'ble MR. BUCKLEY said:—"I should have thought that in the case of such large works they would have been kept by the Local Government."

[*The President; Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble THE PRESIDENT said:—"They ought undoubtedly to be there."

The Hon'ble MR. BAKER said:—"In the first line of clause (4) of the amendment, in order to meet the views expressed by the Hon'ble Mr. Apcar and the Hon'ble Babu Surendranath Banerjee, it is proposed to substitute the words 'No municipal authority' for the words 'Neither the General Committee, the Corporation nor the Local Government.' That would have the effect of leaving the acceptance to the various municipal authorities (the Chairman does not come in at all), *i.e.*, the General Committee and the Corporation. The Local Government would then merely have the power of vetoing any particular tender which was unsatisfactory."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I thankfully accept that."

The motion was then put in the amended form and agreed to.

The Hon'ble MR. BAKER'S amendment in section 81 (*now* 88) having been adopted, the Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the following motions standing in his name:—

(1) that after the words 'General Committee' in line 1 of sub-section (*2*) of section 81 (*now* 88), the following words be inserted:—'or the Corporation, as the case may be,' and

"(2) that the words 'in the case of the General Committee' be inserted after the words 'may accept' in line 3 of sub-section (*2*) of the same section."

For the same reason, the Hon'ble MR. APCAR, by leave of the Council, withdrew the following motion standing in his name:—

"that in section 81 (*now* 88), sub-section (*2*), the words 'subject to the provisions of clauses (*dd*) and (*e*) of section 79 [*now* clauses (*d*) and (*e*) of section 86],' be omitted, and that at the end of the sub-section the following words be added:—

"Provided that, where the contract involves an expenditure exceeding ten thousand rupees, the action of the General Committee under this section shall be subject to the approval of the Corporation."

For the same reason, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motion standing in his name:—

"that at the end of section 81 (*now* 88), sub-section (*2*), the words 'for reasons which shall be recorded in their proceedings' be added."

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Apcar.*]

He said:—"This amendment needs a word of explanation. As I understood section 81, sub-section (2), I thought the General Committee would have the power of disposing of tenders, not only with respect to contracts within their jurisdiction, but also with respect to contracts within the jurisdiction of the Corporation and the Local Government. I thought it was not fair that the General Committee should be in a position arbitrarily to reject all tenders offered to the Corporation or the Local Government. Now, however, according to the amendment which has just been carried, the General Committee will not have that power; my amendment therefore, becomes unnecessary, and I accordingly withdraw it."

For the same reason, the Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the following motion standing in his name:—

"that after the word 'Committee' in line 6 of sub-section (*1*) of section 81 (*now* 88) the following be inserted:—

"'in the case of all contracts exceeding one thousand rupees and not exceeding ten thousand rupees, and the Corporation in the case of all contracts exceeding ten thousand rupees.'"

The Hon'ble MR. APCAR moved that in section 81 [*now* 88, sub-section (*1*)], sub-section (*1*), after the words "General Committee" the words "on behalf of the Corporation" be inserted.

He said:—"With regard to this amendment my aim is that all advertisements that might be published, should be published, in the name of the Corporation which will be the body by whom the contracts will be made. As it now is, whatever the internal arrangement will be, the General Committee will be the body who will decide what form the advertisements shall take. I do not wish, in any way, to take their authority away in a proceeding such as that, but, inasmuch as as, after all, the General Committee is acting on behalf of the Corporation in whatever they do, I think that that ought to be made clear, and that in all publications or advertisements it should be stated that they are issued by the General Committee on behalf of the Corporation. I do not think the General Committee should appear to the outer world as an independent body acting independently. That is the purpose of this amendment. It is not intended in any way to hamper the General Committee, or in any way to obstruct the administration, but, inasmuch as contracts are made on behalf of the Corporation, the advertisements calling for tenders ought to be made in somewhat the same form."

[*Mr. Baker; Mr. Apcar; Dr. Asutosh Mukhopadhyaya*]

The Hon'ble MR. BAKER said:—"As a matter of substance I think this amendment comes to nothing Sir: it has no meaning. As a matter of form, I think it is not quite correct, because advertisements are called for, not on behalf of the Corporation, but on behalf of the Municipality, which is quite a different matter. The Municipality includes all the Municipal authorities, includes every thing connected with the Municipal government of the town. If the words 'on behalf of the Corporation' were inserted, it would look as if the General Committee, one of the Municipal authorities, were calling for tenders on behalf of one of the other Municipal authorities. In contracts, such wording would not be technically correct. As far as I can judge, the insertion of the words would have no sort of effect, one way or the other, and, therefore, I think they are superfluous."

The Hon'ble MR. APCAR, in reply, said:—"May I make this observation with regard to the point? All contracts are made on behalf of the Corporation, but, whatever contracts are made, the Chairman and the General Committee are merged in the Corporation so far as liability, or responsibility, or obligation, is concerned; that is my reason in putting this amendment forward."

The motion was then put and lost.

SECTION 90.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved, that in section 83, sub-section (2) [*now* section 90, sub-section (2)], for "once a week" be substituted "twice a month".

He said:—"In the first place, Sir, I have to point out that, if it is obligatory on the General Committee to meet once a week, we make it obligatory on the Corporation to spend Rs. 20,000 a year, because every member of the General Committee who attends a weekly meeting will have to be paid a fee at Rs. 32 for each such attendance. In the second place, I desire to point out that, even if we substitute 'twice a month,' there is ample safeguard that business will not suffer, for the reason that the same sub-section provides that the General Committee may meet at such other times as may be found necessary. Sub-section (4) also provides that the Chairman may at any time call a special meeting of the General Committee for the transaction of any business which, in his opinion, cannot be delayed until the next ordinary meeting of the Committee. In the third place Sir, I have to point out that, having reference to the terms

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; the President; Mr. Oldham*]

of section 88 (*now* 95), which deals with the appointment of Sub-Committees, to whom the powers of the General Committee may be delegated, it may fairly be expected that the labours of the General Committee will be much lightened; and, lastly, Sir, I desire to point out that, having regard to the composition of the reconstituted Corporation and the reconstituted General Committee, it may be expected that, after the disappearance of what has been described as 'the obnoxious element,' there may be less of speech and more of action."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Notwithstanding the disappearance of 'the obnoxious element' to which some of us belong and to which my hon'ble friend has just referred, I think it will be absolutely necessary to hold the meetings of the General Committee once a week. My hon'ble friend Mr. Oldham will bear me out when I say that, having regard to the enormous increase of work which has taken place within recent times, and especially after the amalgamation, we have been obliged to hold meetings of the General Committee sometimes twice a week instead of once, and it seems to me that it would be useless to lay down as part of the law that meetings should be held only twice in a month and as often as may be necessary. I am afraid it will be found necessary to hold these meetings at least once a week. If my hon'ble friend were a member of the Corporation—and if he were, he would probably have been one of the 'obnoxious element'—he would have been of the opinion that the General Committee must meet once a week. The volume of business is so large that it cannot possibly be dealt with unless the Committee meets once a week."

The Hon'ble THE PRESIDENT said:—"Where did the Hon'ble Member find the words 'obnoxious element'? I have no recollection of seeing these words anywhere."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I have seen them in several of the newspapers."

The Hon'ble MR. OLDHAM said:—"My friend has appealed to me, and under ordinary circumstances I would have been in agreement with him; but recent events have somewhat shaken my views. Last evening we had a meeting of the General Committee of the Corporation which was attended by the Hon'ble Babu Durga Gati Banerjea and some others and also myself.

There was a formidable list of business on the agenda paper, some 40 items, including one of those personal matters which always take up so much time, and it is a fact that we cleared off the whole business within one hour. A fortnight ago I should certainly have been in the fullest agreement with my hon'ble friend, but after last evening I do not know what to say. It is also a fact that the Port Commssioners meet only once a fortnight, and their meetings are very short. But then I must acknowledge that the variety of business which comes before the General Committee of the Corporation is very much greater than that which comes before the Port Commissioners."

The Hon'ble MR. APCAR said:—"Sir, my experience has been that some little time back there were lists of some 30 to 40 items got through in an afternoon sitting. Then I was a more regular attendant than, owing to pressure of other work, I have been able to be recently. I was not present when the General Committee met last evening, but it seems to me, that the Hon'ble Mr. Oldham has himself suggested an exceedingly strong argument in support, though he seems rather doubtful if he would accede to what my hon'ble friend on my left has said. He stated that not less than 40 items of business were brought up. Well, are the General Committee not to take into consideration such an accumulation of business? No less than 40 items were brought forward at this one meeting. Now, if these had all come up within one week—"

The Hon'ble MR. OLDHAM said:—"Some of these items had been accumulating for much more than one week."

The Hon'ble MR. APCAR said:—"Of course, we cannot go into an account of what had accumulated or what had not, but we have to take into consideration this, that under the provisions of this Bill, the General Committee have the power to transfer, practically, all their business to the Chairman. That is an element which must be taken into consideration, and it may tend to diminish business very considerably. And there is also the further element which my hon'ble friend, Dr. Asutosh Mukhopadhyaya, has brought up, that is, the payment of fees, which is a very serious item of expenditure. But, in all circumstances, I think it would be inadvisable that the Committee should meet less frequently than once a week. My experience is that their business is such that it will require some attention to be paid to it at least once a week. Therefore, I cannot agree with the amendment which has been brought forward. As to the

[*Mr. Apcar; Mr. Baker; Babu Surendranath Banerjee.*]

rapidity with which the work is got through, that, of course, depends on the interest or want of interest, and on the knowledge or want of knowledge, of the members of the Committee present. I am quite prepared to find that under the new *régime* business will be got through very rapidly. But whether this will be to the advantage of the rate-payers has yet to be seen. I have been present at meetings when the help of the elected Commissioners has been given to the Chairman and the discussions have been prolonged; but the discussions have always been on the side of, and in the interest of, the rate-payers and of the public, and I do not think that the time which has thus been given should be grudged."

The Hon'ble MR. BAKER said:—"I am entirely opposed to this amendment, and I entirely agree with the Hon'ble Babu Surendranath Banerjee. It seems to me to be out of the question, that the General Committee will ever get through their business at all unless they meet once a week, and I should be surprised if the Chairman does not find it necessary to call other meetings in addition. The whole of the proceedings of the Sub-Committees, which correspond with the existing standing Committees, have to come before the General Committee for confirmation. That is not the case under the present law, for the proceedings of standing Committees go direct to the Corporation for confirmation, and do not come before the General Committee at all. Although the General Committee may be relieved by delegating its powers to these Sub-Committees, this item of confirming their proceedings is a distinct addition to the work which the General Committee now performs. I think, if the Hon'ble Member, Dr. Asutosh Mukhopadhyaya, had ever attended a meeting of the General Committee and seen the enormous volume of business that comes up, he would never have brought up this question. As regards the question of the cost of these meetings, that is, I admit, a drawback, but we shall deal with it when we come to section 93 (*now* 100)."

The motion was then put and lost.

SECTION 93.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following proviso be added to section 86 (*now* 93):—

"Provided that all resolutions of the General Committee passed at a meeting at which not more than eight members of the said Committee are present shall be subject to confirmation by the Corporation."

He said:—"Sir, in this view of the law I am supported by the Report of the Corporation. I refer to page 7 of the fourth instalment of the Report of the Bill Committee of the Corporation. They say in paragraph 42:—

"'The Committee are of opinion that all proceedings of the General Committee should come up for confirmation before the Corporation as under the present law. If this is not agreed to, the Committee would urge that the decisions arrived at by a majority of votes at meetings of the General Committee at which not more than, say, 8 members are present, might be made subject to confirmation by the Corporation. Such decisions might, in some instance, be due to the casting-vote of the Chairman, and could not properly be looked upon as decisions of the General Committee, and should not, therefore, be considered final.'

"Sir, this was the view of the Bill Committee consisting of the most experienced Municipal Commissioners. The object is to safeguard the General Committee against what might be considered a snatch vote. Suppose a matter of very considerable importance is brought before the General Committee, and the attendance is only two-thirds of the entire number, and a decision is arrived at, I think it is desirable that, under these circumstances, that that decision should be laid before a higher authority for confirmation. I think it is right and proper that such a decision should be so laid, and the amendment provides for it. It expresses the views of my colleagues who have had the largest experience as Commissioners, and I venture to recommend it for your acceptance."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has said in effect that this amendment is necessary to prevent any matter being settled at a small meeting of the General Committee by the mere casting vote of the Chairman. But I would point out that the Chairman has a casting vote, however many members are present, and the Hon'ble Member's argument would equally apply to every resolution of the General Committee which was decided only by the Chairman's casting vote. It might happen that, if every single member of the General Committee were present, they might be equally divided, and the Chairman would have to give a casting vote. The Hon'ble Member also urged that the amendment is desirable in order to prevent resolutions being carried by a snatch vote, by which I presume he means a vote at a meeting at which very few members were present. But that, Sir, is provided for in section 84 (*now* 91), where a quorum of six is fixed. Unless a quorum is present, no proceedings can be transacted at all. Therefore, I think neither of those arguments has any sort of validity. I would go much further than that. The effect of this amendment is

that, unless nine members of the Committee are present from first to last, the proceedings of the Committee would have no validity unless they are confirmed by the Corporation. Now I could have understood that proposal if the Hon'ble Member's amendment to raise the number of members of the General Committee to eighteen had been carried, although I should have opposed it even in that case. There is something to be said in having at least one-half of the General Committee present before business can be transacted. But the Council has decided against that proposal, and the effect of this amendment is that three-fourths of the whole number of the General Committee must be present before their proceedings have any kind of validity. Now I do not think the Hon'ble Member can quote a single precedent for such a proportion in any similar body in any part of the world. The General Committee is to consist of the best and ablest members of the Corporation; it will be thoroughly representative, and it seems to me to argue a most extraordinary and most uncalled for distrust of the Committee to provide that unless three-fourths of the members are present their proceedings are to have no force."

The Hon'ble MR. BOLTON said:—"It seems to me sufficient to say, in opposing this amendment, that, if it were carried, the General Committee would be shorn of much of the power which it is the express purpose of the Bill to confer upon it, as one of the co-ordinate authorities of the municipality."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret I have to say so, but I am wholly opposed to this amendment. To illustrate what its possible consequence may be, I will venture to put one concrete case before the Council. Let us suppose that eight members of the General Committee are present at a meeting. They are absolutely unanimous in the decision of a particular question, and it should be remembered that they form a majority of the entire body. Their proceedings, according to the amendment, will not be final unless they are confirmed by the Corporation. Well, suppose that at the meeting of the Corporation at which these proceedings come up for confirmation twelve members are present, of whom seven vote against the confirmation of the proceedings and five in favour of it. That is only another way of saying that seven members of the Corporation will be able to upset a decision arrived at by eight members of the General Committee. I venture to think that a very exceptional case ought to be made out before we are called upon to accept so startling a result."

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I do not wish to reply at any length to the observations which have been made, except to say that my hon'ble friend Dr. Ashutosh Mukhopadhyaya has introduced two assumptions, both of which are not likely to happen. In both cases, upon any contentious matter, the eight members of the General Committee are not likely to be absolutely unanimous; and, although I know that twelve members will form a quorum for the Corporation, I cannot suppose that that will be the usual attendance. I think we may take it for granted that the attendance will considerably exceed twelve. In practical life we deal not with abstract possibilities but with things which are likely to happen, and such assumptions as absolute unanimity in the General Committee and an attendance of only twelve members in the Corporation are things which I can say from my experience of the General Committee and of the Corporation are assumptions which are not in the least likely to be realised. I will not reply to the arguments which have been urged by my hon'ble friend Mr. Baker, but I think my hon'ble friend said that he is prepared to accept this amendment if the number is reduced."

The Hon'ble MR. BAKER said:—"I said I could understand it, but I should oppose it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I was prepared to reduce the number to six if my hon'ble friend saw his way to accept the principle of the amendment."

The Hon'ble MR. BAKER said:—"Under no circumstances whatever can Government agree to allow the proceedings of the General Commtttee to go to the Corporation for confirmation."

The motion was then put and lost.

SECTION 95.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 88 (*now* 95), sub-section (*1*), the words "delegate any of their powers or duties to Sub-Committees, and may also from time to time by like resolution" and the word "such" in line 5 be omitted.

He said:—"My reason for proposing this amendment is that the words which I have mentioned seem to me to be unnecessary in view of

the provision of sub-section (*11*) [*now* (*12*)] of this section. Sub-section (*11*) [*now* (*12*)] says that 'all proceedings of any Sub-Committee shall be subject to confirmation by the General Committee.' As I understand it, even if certain powers or duties are, under this Bill, delegated to any Sub-Committee, the decision of the Sub-Committee upon such a matter will have to be placed before the General Committee for confirmation. Therefore, the same object will be attained if we only leave in the words 'refer to Sub-Committees for enquiry and report or for opinion.' If the intention had been to delegate powers and duties absolutely, that is to say, if the Sub-Committees had been authorised to assume certain powers and to perform certain duties not subject to the control of the General Committee, it would have been desirable to have these words, but, when everything really remains in the hands of the General Committee, I think they may be safely omitted."

The Hon'ble MR. BAKER said:—"The Hon'ble Member's argument is that the power of delegation given in the sub-section is superfluous, because the General Committee has the power to submit questions to Sub-Committees for enquiry, report and opinion, and the Sub-Committees' reports have to be confirmed by the General Committee. The Hon'ble Member considered mere confirmation of the proceedings to be sufficient without the power of delegation; but I think, Sir, there is a great practical difference. Under the Bill as it stands, the Sub-Committees will actually exercise the powers of the General Committee in everything except name. They will actually do whatever work is made over to them by the General Committee; they will discharge functions which are imposed by the Bill on the General Committee, and their proceedings will go to the General Commitee merely for confirmation. Now it is well known that, when work is done by a Sub-Committee, about 95 per cent. of the proceedings are confirmed without discussion. The delegation of powers in this way practically relieves the delegating body of a very large mass of work which would otherwise devolve upon it. Moreover, if the Hon'ble Member will refer to an amendment, of which I have given notice, he will see that it is proposed, following the provisions of the existing law, to give to the Executive power to anticipate the sanction of the General Committee. Now, Sir, if matters were only referred to Sub-Committees for enquiry, report or opinion, I do not think the Chairman would be able to exercise these powers; he could not to take action in anticipation of the confirmation of the proceedings."

[*Babu Surendranath Banerjee ; Mr. Buckley.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I most support the amendment and for reasons different from those which have been urged by my hon'ble friend. The reasons of my hon'ble friend are those of a lawyer; my reasons are those of a practical man. I object to the delegation of powers and duties to small bodies. Specific matters should, I think, be referred to them, but powers as powers, and duties as duties, I do not think should be delegated to small bodies, of which the maximum number of members is six and the minimum three. When you delegate a distinct power or a specific duty, you know what you are delegating, and then there is the further safeguard that the matter comes before the General Committee for confirmation. I feel doubtful as to the wisdom and expediency of delegating powers and duties in the manner contemplated in this sub-section, as I consider that such delegation may be attended with risk, and I do not think it ought to be allowed. I therefore support the amendment."

The Hon'ble MR. BUCKLEY said:—"To my mind to strike out the words which the Hon'ble Dr. Asutosh Mukhopadhyaya would exclude from this section would be to take out one of the most advantageous proposals in the Bill. I cannot agree at all with what the Hon'ble Babu Surendranath Banerjee has said, that the delegation to small Sub-Committees is in itself bad. I will give an example in which I think even he will admit it would be advantageous. In dealing with *bustees*, one of the most important and difficult duties of the Corporation, nothing is more desirable than that the Ward Commissioner should help, with his knowledge of the circumstances, in deciding any matter. Now, under the terms of the Bill with reference to *bustees*, there are 22 duties assigned to the General Committee, and I think nearly all of them are essentially duties which can be much better performed by a *Bustee* Committee, and probably by a local *Bustee* Committee. I hope the *Bustee* Committees will deal with the different portions of the town separately. I think it advantageous that the Committees should so deal with them. One of their duties is 'to require an owner to take down a hut and re-erect it in conformity with the standard plan;' another is 'to cause the materials of any hut pulled down under their orders to be given to the rightful owner.' It seems to me clearly advantageous that the Sub-Committees should deal with such matters as these. The difference between the present Act and this Bill is most plainly marked.

[*Mr. Buckley; Mr. Baker.*]

Under the existing Act the General Committee under section 64 is only a Budget and Finance Committee, and can only deal with business expressly referred to it by the Corporation. This is not so, however, in fact, but it is the existing law. The Sub-Committees under the present Act can only enquire and report and advise. They have no administrative functions delegated to them. Under this Bill, any of the duties and powers of the General Committee can be assigned to Sub-Committees, and they may become most useful bodies, relieving the General Committee of much detailed work."

The Hon'ble MR. BAKER said:—"When I spoke just now, I confined myself entirely to the grounds on which the hon'ble mover of the amendment supported it. But the grounds put forward by the Hon'ble Babu Surendranath Banerjee are different. His proposal would bring the work of the Corporation to a standstill. The volume of work before the General Committee is so enormous as to prevent them ever getting through it unless they have recourse to the principle of division of labour. These Sub-Committees, among other duties, will take the place of the present Standing Committees. All their proceedings will come before the General Committee for confirmation, and will have the same effect as if they had been done by the General Committee in their own persons. The other day the Hon'ble Dr. Asutosh Mukhopadhyaya moved an amendment to prevent the Chairman from delegating his powers to any Municipal officer, except a few specified ones, and after hearing what I had to say about it, at the recommendation of the Hon'ble Babu Surendranath Banerjee, he withdrew that amendment. Well, Sir, the position here is exactly the same. Just as the Chairman could not possibly get through his work if he had to do everything with his own hands, so the General Committee would be unable to get through the work imposed upon them if they had to transact every item of business themselves. Throughout the proceedings of the Select Committee it was taken for granted that not only would these Sub-Committees be appointed, but that the freest possible use would be made of this power. I think, Sir, if the Hon'ble mover of the amendment had served on the Corporation, he would recognise how utterly impossible it is to impose on the General Committee all the duties the General Committee at present have imposed upon them, and also the work of the numerous Standing Committees of the Corporation."

The Hon'ble MR. OLDHAM said:—"I have very little to add to what my Hon'ble friend the member in charge of the Bill has said in reply to the Hon'ble Babu Surendranath Banerjee. I would remind the Hon'ble Babu Surendranath Banerjee that the Loans Committee, which is entrusted with very large financial questions, and the realising of the capital of the Corporation, consists only of six members, and I do not think I have ever seen more than four members at a meeting. Then again it should be remembered that these Committees, which will take up so much of the work of the present Standing Committees of the Corporation, will be very often peripatetic. They will go about and inspect various parts of the town. It is, I think, quite impossible in practice for the existing large Committees to carry out inspection work of that nature."

The motion was then put and lost.

The Hon'ble MR. APCAR moved that sub-section (*3b*) of section 88 [*now* section 95, sub-section (*6*)] be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that sub-section (*3b*) of section 88 [*now* section 95, sub-section (*6*)] be omitted.

The Hon'ble MR. APCAR said:—"Sir, I move that section 88, sub-section (*3b*) [*now* section 95, sub-section (*6*)], be omitted. I am entirely in favour of having the best men we can get for any work that has to be done, when all causes of friction are removed. I think that the Corporation, or even the General Committee, will be best able to find persons better fitted for any particular kind of work, without being hampered by any rules which would limit the selections in proportion to the Ward Commissioners, the nominated Commissioners, and those appointed by Government. There has never been a suggestion made that the Municipality packed their Committees. I think they have tried to get the best men they could, and I think it would be difficult for Government to make rules to meet the different cases—hard-and-fast rules—such as are contemplated under the law. I think it will be much better and wiser that there should be no such rules, and that those who have to select should have a free choice of whom they may think the best fitted for any particular purpose in hand."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have an amendment very much upon the same lines, Sir. This proviso in the Bill has been

[*Babu Surendranath Banerjee.*]

drafted in accordance with the recommendation of the Government of India. Paragraph 20 of the letter of the Government of India says:—

'I am also to suggest that it might be desirable to lay down rules for the appointment of the Special Committees and Sub-Committees which would secure their being truly representative, in respect of their constituent elements, of the Corporation or General Committee appointing them. The provisions regarding the making of rules and bye-laws for the conduct of the business of Special Committees and Sub-Committees under sections 89A and 590, in connection with sections 595 and 597, might be extended to include their constitution in general agreement with the principles already laid down. It might not be necessary or feasible for all such Special Committees and Sub-Committees to be homogenous in constitution with the body appointing them; but it is clear that in some cases at least such homogeneity alone would secure efficiency and obviate friction.'

"Well, Sir, it was in accordance with this recommendation that the Select Committee drafted the section. But the Select Committee were unanimously of opinion that it would be most difficult to work a section of this kind. I will read an extract from the report of the Select Committee with reference to this particular section. The Select Committee observed:—

'At the same time we are bound to say that we entertain considerable doubt as to whether it will be possible to make workable rules of this character, or to give practical effect to any rules that might be made on the subject, however well they may be devised. It is even possible that such rules might impair the working efficiency of Committees appointed under them.'

"Therefore, Sir, when these rules were made, it was the deliberate opinion of the Select Committee that the rules might impair the working efficiency of the Committees appointed under them. This is the unanimous view of the Select Committee. With all the respect we can possibly feel for the Government of India, I think we ought to state, in clear and distinct terms, that the effect of a section like this, if carried out, would be disastrous to the working efficiency of the Corporation, for that is practically what the Select Committee said in much milder language. It seems to me to be positively dangerous to have a section like this in the Bill. We have to provide for future contingencies. The history of this section will be forgotten. The circumstances under which it became the law of the land will not be borne in mind. My hon'ble friend will not always be the Secretary of the Municipal Department—another Lieutenant-Governor will occupy the place Your Honour now adorns—and then rules may be framed which, I have

not the slightest hesitation in saying, will be disastrous to the efficiency of the Corporation. Having regard to these considerations, is it right that we should have even a permissive section like this in the Bill? We are bound to look to the efficiency of the Corporation. I think we owe it to ourselves to state, in clear and distinct terms, that we as the Legislature feel that even this permissive power of making rules ought not to be given to the Govern. ment in a matter like this. Therefore I appeal to Your Honour and to this Council to omit the sub-section. I know perfectly well that it will be a dead letter under Your Honour's *régime*, but it may not be so under your successor's *regimé*, and, therefore, it is necessary that we should guard against possible contingencies which might lead to mischief. I hope that, as in legislating we are bound to take long views of things, we shall so provide that no mischief may happen in the future by allowing a section like this to be passed into law. I trust the amendment of my hon'ble friend will be accepted."

The Hon'ble MR. BAKER said:—"I wish to say very little about this sub-section, because my views are accurately stated in the passage of the report of the Select Committee which has been read by the Hon'ble Babu Surendranath Banerjee. But I think Sir, he has rather exaggerated the risk of disaster following from this section being allowed in the Bill. So far as I can see, it will be quite impossible ever to make rules of this kind, and I am sure, at all events as far as I can foresee, no such rules will be made. The section is permissive. If the section had been compulsory, I admit the position would be one of great difficulty. But after all, it is merely a permissive section in the Bill, and a section which I think every one is agreed is extremely difficult of application, and every one is also agreed that it is not likely to be put into practice. I do not think we need trouble very much about any dangers that are likely to ensue on its being put into operation. Therefore, although I cannot say I am in favour of the section, I think we might allow it to stand in the Bill."

The Hon'ble Mr. APCAR, in reply, said:—"What I desire to point out is that, if this section is so difficult of application, it would be wiser to take it out altogether, because, although my hon'ble friend says there will be no chance of its being put into operation, he, after all, can only speak for himself, and we do not know what the future has in store for the Corporation. Considering also

[*Mr. Apcar; Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

that he recognises the great difficulty of putting it into operation, I think it is best to remove all temptation and to exclude this sub-section altogether from the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"My hon'ble friend said it will be quite impossible to frame rules; then why have the section at all? My friend has distinctly said it is quite impossible to frame rules under this section of the Bill."

The Hon'ble MR. BAKER said:—"Did I say 'quite impossible'"?

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have got your exact words."

The Hon'ble MR. BAKER said:—"I said my views were expressed in the paragraph of the Select Committee's report."

The motions being put, the Council divided as follows:—

Ayes 9.	*Noes 10.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Oldham.
The Hon'ble Mr. Mackenzie.	The Hon'ble Mr. Baker.
The Hon'ble Mr. Spink.	The Hon'ble Mr. Bolton.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	The Hon'ble Mr. Slack.
	The Hon'ble the President.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 88, sub-section (*3b*), [*now* section 95, sub-section (*6*)] for lines 3 to 8, the following be substituted:—

(*i*) Commissioners elected under section 7 (*now* 8), sub-section (*1*), or appointed under section 52B (*now* 59), sub-section (*1*), and

(*ii*) Commissioners appointed under section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)].

He said:—"My reason for this amendment is that, to the best of my judgment, the section as framed does not correctly represent the views of the Government of India, as embodied in paragraphs 17 and 20 of the despatch dated 7th June, 1899. The question arises, what are the constituent elements of the General Committee who have to appoint Sub-Committees? It is assumed that these constituent elements are the Ward Commissioners, the Commissioners appointed under clauses (*a*), (*b*) and (*c*) of sub-section (*1a*) of section 7 [*now* sub-section (*2*) of section 8] and the Commissioners appointed under clause (*d*) of sub-section (*1a*) of section 7 [*now* sub-section (*2*) of section 8]. Now I venture to submit that these are not the constituent elements either of the Corporation or of the General Committee. So far as the Corporation goes, the constituent elements are described in paragraph 17 of the despatch. They are described to be the twenty-five elected Commissioners and the twenty-five appointed Commissioners. So far as the General Committee is concerned, my contention is that the constituent elements are (1) the four representatives of the Ward Commissioners; (2) not the four representatives of the Commissioners appointed under clauses (*a*), (*b*) and (*c*), but the four who represent the Commissioners appointed under clauses (*a*), (*b*), (*c*) and (*d*), that is to say, these four represent not only Trade, Commerce and the Port Trust, but they also represent the Government partially; and (3) the four members appointed by Government. Therefore, it is not correct to say that the rules are to be made declaring what proportion has to come from the Ward Commissioners, the Commissioners appointed under clauses (*a*), (*b*) and (*c*) of sub-section (*1a*) of section 7 [*now* sub-section (*2*) of section 8], and the Commissioners appointed under clause (*d*) of sub-section (*1a*) of section 7 [*now* sub-section (*2*) of section 8]. I submit, therefore, that (2) and (3) ought to be amalgamated.

The Hon'ble MR. BAKER said:—"The Hon'ble Member admits that the proportions of these Sub-Committees ought to be truly representative of the constituent elements of the Corporation. Now, Sir, the constitution of the General Committee is laid down in section 8 (*now* 9 of the Bill, and that says that the 12 members shall be respectively elected and appointed as follows:—

four shall be elected by the Ward Commissioners,
four shall be elected by the Commissioners appointed under clauses (*a*), (*b*), (*c*) and (*d*) of section 7 (*now* 8),
four shall be appointed by the Local Government.

"Now, Sir, we have followed that classification in clause (3*b*)."

[*Dr. Asutosh Mukhopadhyaya ; Mr. Baker ; Mr. Apcar.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"That is precisely my complaint. You have not done so."

The Hon'ble MR. BAKER said:—"I would ask that this matter stand over until Monday. I am not quite sure that there is not some confusion about it."

The further consideration of these amendments was then postponed to the next meeting of the Council.

The consideration of the following motion standing in the name of the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, namely, that at the end of section 88, sub-section (3*b*) [*now* section 95, sub-section (*6*)], be added "but from no Sub-Committee shall the representatives of either of the two classes of Commissioners be entirely excluded," was also postponed to the next meeting of the Council.

The Hon'ble MR. APCAR moved that in section 88, sub-section (*3a*) [*now* section 95, sub-section (*5*)], line 2, for the words "General Committee," the word "Corporation" be substituted, and that the words from "and none of them need" to the end of the sub-section be omitted.

He said:—"Sir, we have, under this section, power given to the General Committee to decide what Sub-Committees there shall be and what subjects they shall deal with, and what I seek to bring about by my amendment is, that the Corporation should elect the members of such Sub-Committees, and not the General Committee. I think, Sir, that the general body of the Corporation will be better able to judge as to the qualifications of individuals than the General Committee, which is a small body in which there will be many who are not by any means in touch with the Commissioners as a body. There is a further difficulty in the question, which I think is a real difficulty, and that is, that the members of the Sub-Committees will be paid by fees, and they may be influenced by reason of those who may be regarded as being the patrons in giving those fees, and I do not like that there should be any suspicion of that sort. Whether there be reason for this or not, I am not going to enter into the question, but we know this, that although in Bombay the powers of election of these Sub-Committees are given to the Standing Committee, which answers to our General Committee, the Sub-Committees are not paid at all. These are generally the grounds on which I move that the word 'Corporation' be substituted for the term 'General Committee'."

[*Mr. Baker.*]

The Hon'ble MR. BAKER said:—"This proposal seeks to transfer to the Corporation the power to appoint Sub-Committees to whom are to be delegated part of the duties of the General Committee. The Hon'ble Member has said that the Corporation is better able to judge of the merits of members to be appointed than is the General Committee. He said the General Committee was a small body and that the Corporation is better acquainted with the merits of the members who may be appointed to Sub-Committees. This sounds, Sir, as if the members of the General Committee were entire strangers to the Corporation, as if they knew nothing about their fellow Commissioners at all. But every member of the General Committee is also a member of the Corporation. I would remind the Hon'ble Member that in the House of Commons they have an institution known as the Committee of Selection, which is a Committee to which is entrusted the duty of selecting members of other Committees to be appointed by the House. Now, Sir, if we were going to have such an institution in the Corporation of Calcutta, I think you would find it very difficult to get a body of men better qualified to act as the Committee of Selection than the General Committee. It will be representative of all sections of the Corporation; it will include, as I have said more than once, the picked men of all classes—men of the highest character and position and of the greatest capacity; and I feel certain that, if the matter is looked at solely from the point of view of making the best possible selection, the General Committee is in the best position to do it.

"But there are still stronger objections to the amendment. These Sub-Committees are to be the delegates of the General Committee. They are to do work assigned by law to the General Committee, and their proceedings come before the parent body for confirmation; and it is quite inconsistent with this scheme of duties to transfer the power of appointing them to some third party. If this were done, Sub-Committees would at once become the agents of the Corporation instead of being, as they are intended to be, the agents of the General Committee. The Corporation would thus obtain the power of interfering with the work of the General Committee in matters with which under the Bill they have no power of interference. It would go a long way towards bringing back that interference by means of Committees which Sir Alexander Mackenzie was so strongly opposed to."

[*Mr. Apcar ; Babu Boikanta Nath Sen.*]

The Hon'ble MR. APCAR, in reply, said:—"With reference to what has fallen from the Hon'ble Member in charge of the Bill as to the Committee of the House of Commons, I would observe that it is not the Cabinet Ministers who form the Selection Committee of the House, but those who are most intimately connected with, and those who have the most intimate knowledge of, the ordinary members of the House of Commons. So I think that in the General Committee, although these may be, as my hon'ble friend hopes, the pick of the Corporation, it is very possible that among them a large proportion will be those who will be wholly ignorant of the general body of the members generally, and will be unacquainted with a very large portion of the general body among whom would probably be found the most useful persons to serve on these Sub-Committees. With regard to the question of the selection being made by the Corporation, I have said before,—and it has not been challenged in any degree whatever,—there has been no suggestion that the Corporation packed their Committees. I think that, if the Corporation were permitted to have the selection of these Committees, there would be a better selection made than if the choice were left to the General Committee."

The motion was then put and lost.

The Hon'ble BABU BOIKANTA NATH SEN moved that in section 88, sub-section (3*a*) [*now* section 95, sub-section (5)], the word "shall" be substituted for 'need, unless the General Committee so direct"

He said:—"I expect support for this amendment from the Hon'ble Members who have, in this Council, affirmed more than once that local self-government is not being withdrawn, that concentration is not the object of this Bill, but that it is designed with the object simply of curtailing some of the powers at present enjoyed by the preponderating element. These observations encourage me to expect support from that quarter. This section, Sir, enables the General Committee to appoint members of the Sub-Committees from the general body of Commissioners, but it does not prevent the General Committee from nominating Sub-Committees from its own body. Where is the guarantee that the General Committee will not invariably exercise that discretion in favour of its own members? Where is the safeguard? Now, Sir, Mr. Risley in his Statement of Objects and Reasons, paragraph 3, stated:—

'Power is also taken for the General Committee to appoint Sub-Committees, either from their own body or from the general body of Commissioners, on which all the working men among the Commissioners will find a place.'

"I beg to draw the special attention of the Council to this observation 'on which all the working talent among the Commissioners will find a place.' I understand it was the intention also of the Select Committee that these Sub-Committees be formed from the general body of the Commissioners. If that is really the intention of the legislature from the time of the inception of this Bill down to this stage, why not give a manifestation of that intention by accepting this amendment? Now I beg to submit that there is undoubtedly a good deal of feeling about this Bill. I need not repeat what the state of excitement is, but if Your Honour is pleased to accept this amendment it would, I believe, be dealing out a considerable concession which would pacify public feelings. I have just heard that the General Committee will be overwhelmed with work, that they ought to be relieved, and therefore, if the working talent of the general body of the Commissioners is intended to be utilized, why not give them this assurance that the Sub-Committees would be always formed from the rest of the Commissioners? If this be done, the public, at any rate the native portion of it, would be, to a certain extent, relieved by the concession. It would be acceding to a certain extent to public wishes without in the least introducing anything which would weaken the executive. I submit, therefore, that this is an opportunity for this Council, and it is an opportunity afforded by this amendment to Your Honour, to make a concession which will, to a certain extent, pacify the excitement caused by the Bill."

The Hon'ble MR. BAKER said:—"The Hon'ble Member says that this proposal, if agreed to, will be regarded as a concession, and that it would go some way towards satisfying the demands of the public. Would the Hon'ble Member be surprised to hear that not a single one of any of the various associations or public bodies who have reported upon this Bill has put forward any such request? The effect of the amendment would be to exclude every member of the General Committee from sitting on any of the Sub-Committees. As I have explained, these Sub-Committees will take the place of the present Standing Committees for water-supply, drainage, bustees, &c., &c. Does the Hon'ble Member seriously think that no member of the General Committee ought to sit upon any one of these important Committees? I feel that no member of the Corporation would ever put forward such an extraordinary proposition. At present, the members of the General Committee are to be found on every one of the Standing Committees, and, as a rule, they are among the leading members of the Standing Committees."

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Buckley.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Some of us do not allow ourselves to be put down as members of the Standing Committees."

The Hon'ble MR. BAKER said:—"I can hardly consider the proposal seriously: it would exclude the picked men of the Corporation from these various Sub-Committees."

The Hon'ble MR. BUCKLEY said:—"The Hon'ble Babu Boikanta Nath Sen thinks that this proposal would not weaken the action of Sub-Committees. To my mind it would be almost fatal. He wishes to have some assurance that the members of the Corporation will have a chance of being members of the various Sub-Committees. I think he may feel the most perfect assurance that this will be the case. Under the London County Council, there are no less than 25 Committees which correspond to the Sub-Committees here, and I have little doubt there should be at least an equal number in Calcutta. If the 12 members of the General Committee are to form 25 Sub-Committees, I am quite sure that they will have to give up all occupations other than that of the municipality. It will be a physical impossibility for members of the General Committee to form all the Sub-Committees. I am myself personally in favour of as large a number as possible of the members of the Sub-Committees not being members of the General Committee, but I do think it is most desirable and, in the principal Sub-Committees, absolutely essential that there should be one member of the General Committee at least who is a member of the Sub-Committee. If the system which is proposed in section 88 (*now* 95) of the Bill is carried out, the result will be this, that on each Sub-Committee there will be three or four members who are Commissioners and one or possibly two members of the General Committee, and one member of the General Committee will, in almost all cases, be the Chairman of the Sub-Committee. The Sub-Committee will deal with the various matters assigned to it, and, when its proceedings come before the General Committee, the Chairman of the Sub-Committee will be the spokesman of the Sub-Committee before the General Committee. That system is in force in several municipalities, and it is most successful, because in all unimportant matters the views of the Chairman of the Sub-Committee, who is a member of the General Committee, are accepted as a matter of etiquette by the General Committee; but of course when important matters come up for consideration, then the members of the General Committee will discuss the

question. It is certain that by having one member of the General Committee as Chairman of the Sub-Committee, and by letting him bring matters before the General Committee, business is greatly facilitated. I am in sympathy with the Hon'ble Member in hoping that as large a number of members of the Corporation as possible may be on the Sub-Committee, and I am sure that, if their powers are somewhat weakened as members of the Corporation generally, they will be considerably increased with reference to those details of which they have the most knowledge and the most local acquaintance."

The Hon'ble MR. BOLTON said:—"The Hon'ble Member has quoted, in support of his amendment, a remark of Mr. Risley's that it was desirable that all the talent of the Commissioners should be utilised on the Sub-Committees; but in proposing that the members of these Sub-Committees shall consist only of members of the Corporation, and not of the General Committee, he excludes from the Sub-Committees all the working talent that will exist in the General Committee, which, as we have been assured, will be comprised of the most practical and business-like members of the municipality. The Hon'ble Member also apprehends that no members of the Corporation who are not also members of the General Committee would be appointed to the Sub-Committees. The General Committee, being a small body, consisting of 12, must, however, obviously have recourse to the other members of the Corporation in order to form most of their Sub-Committees. If, on the other hand, the Sub-Committees consist only of members of the Corporation who are not on the General Committee, while their proceedings are made subject to the confirmation of the General Committee, it is probable that friction would sometimes arise between the General Committee and its Sub-Committees. The section as drafted unquestionably provides the best means of using all the talent of the Corporation in the work of the municipality, and the Corporation will have, through its members, some share in dealing with the matters which are reserved for the General Committee."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The point which has been raised by my hon'ble friend Babu Boikanto Nath Sen is one of considerable importance, and I must say it is a point attended with considerable difficulty. The Council cannot possibly withhold its sympathy from a matter such as that brought forward by my hon'ble friend, having regard to

object which he has in view, namely, to guard against the possibility of the General Committee abusing its powers of nomination in respect of Sub-Committees. I take it, Sir, that that is an object which will command in an unstinted measure the sympathy of this Council, but the Hon'ble Member in charge of the Bill has pointed out there are serious practical difficulties in the way, and I think it is as well that we should address ourselves to those difficulties. It is possible that a Sub-Committee, left without the experienced and matured guidance of members of the General Committee, may not be able satisfactorily to discharge the important and responsible duties with which it may be entrusted. I know how valuable the guidance—the guidance of the more seasoned, more experienced and more matured minds in the Corporation—is. Therefore, I should be unwilling to lay down a hard-and-fast rule to the effect that no member of the General Committee shall be a member of the Sub-Committee. Having gone so far I would stop there, and I would say this—that a limitation ought to be imposed upon the percentage of members of the General Committee being members of the Sub-Committees. Supposing you have one or two members of the General Committee, that ought to be enough. The minimum is three, the maximum is six. Supposing you have two members of the General Committee—if you provide two members of the General Committee upon any Sub-Committee—it may be less—but supposing you have two members of the General Committee upon every Sub-Committee, I think that ought to be quite enough for the satisfactory transaction of business. You will have the experienced guidance of the members of the General Committee, and it seems to me that such a limitation will afford an opportunity to others who are not members of the General Committee to be members of the Sub-Committees. Then, Sir, there is another alternative suggestion which also occurs to me, because it was a suggestion which was made by experienced members of the Corporation, and if I remember right it was a suggestion which was given effect to at one time. I think, Sir, we had a rule to this effect that no member of the Corporation shall be a member of the General Committee and of more than one or two Sub-Committees. The effect of that rule would be to divide the work of the Corporation amongst all the members of the Corporation and give an opportunity to others who are not members of the General Committee to take part in the work of the Sub-Committees. These are the two alternative proposals which occur to my mind; and, as it is a matter of some little difficulty, I was going to make a suggestion to the

[*Babu Surendranath Banerjee; Mr. Baker; Babu Boikanta Nath Sen.*]

Hon'ble Member in charge of the Bill whether he would consent to consider them, because they are matters of practical expediency and administrative convenience, and whether it would not be as well to have the question postponed and we might take it up after tiffin and settle it, that is to say, if the Hon'ble Member in charge of the Bill accepts the principle. If, however, he does not, then there is an end of the matter."

The Hon'ble MR. BAKER said:—"I certainly do not accept the principle that there should be any limitation whatever as to proportion on the Sub-Committees."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Then I have no hesitation in saying, and I say it with regret, that my hon'ble friend takes an extreme view, and I think he takes a view which is opposed to what is right and proper in a case of this kind. What possible objection can my friend have to legislate to the effect that not more than one-third of the Sub-Committee shall be members of the General Committee? I do not see any possible objection to a section of that kind, because we should thus secure the experience and judgment of members of the General Committee to guide the Sub-Committees. What possible objection can there be to the suggestion which I venture to put forward, namely, that no member of the Corporation shall be a member of the General Committee and of more than one Sub-Committee? I think these are limitations which would not in the smallest degree interfere with the satisfactory transaction of business in the Corporation, and at the same time guard against the possibility of any abuse which my hon'ble friend Babu Boikanta Nath Sen is so anxious to provide against and with which I am sure the Council will sympathise. I must say that the Hon'ble Member in charge of the Bill takes an extreme view, and I hope he will modify the opinion he has formed."

The Hon'ble BABU BOIKANTA NATH SEN, in reply, said:—"I can see the difficulty that in some cases may arise owing to the exclusion of members of the General Committee from the Sub-Committees. At the same time I still venture to think that there is a possibility of the abuse of the discretion left to the General Committee. My hon'ble friend Babu Surendranath Banerjee's suggestion was that a maximum number might be provided. If it had been accepted

[*Babu Boikanta Nath Sen; Mr. Apcar; Babu Surendranath Banerjee.*]

by the Hon'ble Member in charge of the Bill, perhaps it would have satisfied me also, but his opposition to that accentuates the necessity of a safeguard. Having regard to the tendency of the present legislation and the propensities of the administration, I believe I am justified in asking for a safeguard. It is, Sir, a safeguard that I ask for and nothing else. Where is the guarantee that the General Committe will not hereafter exclude all the other members and will not appropriate all the privileges? I seek for a safeguard in order that there may not be a monopoly of privileges derived from the work in the Municipality. Let there be a diffusion and a distribution with proper safeguards. As has been observed by the Hon'ble Mr. Buckley, one member from the General Committee might preside over the deliberations of the Sub-Committee. Perhaps that would be a good thing. I repeat that what I seek is that there should be a safeguard."

The motion was then put and lost.

The Hon'ble MR. APCAR, by leave of the Council, withdrew the motions standing in his name, that—

(1) in section 88, sub-sections (*4*) and (*5*) [*now* section 85, sub-sections (*7*) and (*8*)], for the words "General Committee" the word "Corporation" be substituted;

(2) in section 88, sub-section (*5*) [*now* section 95, sub-section (*8*)], the words "and of any rules made under sub-section (*3b*)" [*now* sub-section (*6*)] be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the proviso to sub-section (*5a*) of section 88 [*now* sub-section (*9*) of section 95] be omitted.

He said:—"Sub-section (*5a*) of section 88 [*now* sub-section (*9*) of section 95] is as follows:—

'Every Sub-Committee shall chose one of their number to preside at their meetings:

'Provided that the Chairman shall be President of any Sub-Committee of which he is a member.'

"I wish to remind Hon'ble Members of the history of this particular proviso. At one of the meetings of the Select Committee we came to the conclusion that the Sub-Committees should have the power of electing their own President, no matter whether the Chairman was present or not. I think,

[*Babu Surendranath Banerjee; Mr. Baker; the President.*]

Sir, we arrived at this conclusion, and subsequently we modified it, and the modification finds a place in the Bill. I am in favour of the original amendment of the Select Committee, namely, that Sub-Committees ought to be permitted to elect their own President, and the Chairman ought not *ex officio* to be the President of a Sub-Committee if he happens to be present or be a member of the Sub-Committee. There is no reason why he should necessarily be the President. If he is present, he is able to give all the information which the Sub-Committee might stand in need of; and, although he might not occupy the Presidential chair, he would be in a position to guide, lead and direct the proceedings of the Sub-Committee. I think, Sir, the Sub-Committees might, without the slightest detriment to the prestige of the authority of the Chairman, be permitted to elect their own President. I do not see why any modification of the original decision of the Select Committee should be made. I hope, therefore, that this amendment might be accepted."

The Hon'ble MR. BAKER said:—"This is a case in which second thoughts are best. I would only say that it seems to me absolutely inconsistent with the position of the Chairman that he should be a member of a Sub-Committee with somebody else in the chair. And I would add that there is hardly any part in this Bill about which Mr. Bright takes a stronger view."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Am I to understand that we are to be determined in the course of legislation that we follow here by the strong opinions of Mr. Bright or the Municipal executive? No doubt those strong opinions are factors for consideration, but I venture to submit that they are not determining factors in the course of legislation that we should adopt here. We are not to be guided in the discharge of our duties except by our own consciences and what we arrive at after mature consideration. It is perfectly legitimate for Mr. Bright to object to a thing of this kind. Being Chairman, he certainly would like to be Chairman of the General Committee and of Sub-Committees. He would not of course consent to any change the effect of which would be to place him in an inferior position than that of Chairman even of meetings of Sub-Committees."

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member in charge of the Bill mentioned Mr. Bright's name in support of his own particular view, but the Council will give due weight to the remarks of the Hon'ble Mover of the amendment."

[*Babu Surendranath Banerjee ; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Mr. Bright's opinion no doubt is a factor to be taken into account, but it is not to be the determining factor, as apparently it is with my hon'ble friend in charge of the Bill. I may mention just one Committee, and I think the facts connected with that Committee will convince the Council how Committees and Sub-Committees do admirable work when they are left to themselves and not in any way controlled by the Municipal executive. I would refer to the Bill Committee."

The Hon'ble MR. BAKER said:—"The Chairman was not a member of that Committee. It is only in cases of those Committees of which he is a member that he is to be Chairman."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I wanted to show that members of the Corporation and members of Committees are able to get on without the guidance of the Chairman, and I wanted to show this by reference to the Bill Committee. Here was the Bill Committee charged with most important work, namely, the consideration of the Calcutta Municipal Bill. All the meetings of the Bill Committee, with one exception, were presided over by Babu Kally Nath Mitter. I attended every meeting, and I venture to assert that I do not remember any Committee of the Corporation which has done such admirable work in connection with a difficult question as this Bill Committee has done, unfettered, uncontrolled and without the guidance of the executive. Therefore, it seems to me that the members of the Corporation are able to take care of themselves, and do the work of Committees and Sub-Committees. Therefore, when a Sub-Committee is appointed, there is no reason why the Sub-Committee should not elect its own Chairman. My friend the Hon'ble Mr. Apcar reminds me of another Committee, namely, the Suburban Road Committee."

The Hon'ble MR. BAKER said:—"I rise to order. The Hon'ble Member is now replying to what I said just now, and he seems to me to be travelling outside the recognized limits of a reply."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am illustrating a point, in regard to which Your Honour has permitted me to bring forward one illustration. If I was in order in bringing forward one illustration, surely I am in order in bringing forward another."

[*The President; Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble THE PRESIDENT said:—"The Hon'ble Member in charge of the Bill will have a right of reply."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Here was another Committee, also a non-official Committee, charged with most difficult work connected with the Suburban roads, and I understand the work done by that Committee, without the guidance of the Chairman, was most satisfactory, and its recommendations are now being carried out. Therefore, my contention is this: that the members of the Corporation, of the General Committees and of Sub-Committees are able to look after themselves. If the Chairman is there, let him appear as an ordinary member. If the Sub-Committee propose to elect him as President, by all means let them do so. I do not want to interfere with their discretion, but do not make it obligatory upon them to elect him as President."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee has quoted one or two instances quite correctly to show that a Committee of the Corporation is capable of doing good work even though they are not under the guidance of the Chairman. But I think he will not find a single instance in which the Chairman has been a member of a Committee and has not been in the chair. In all the instances which he has cited the Chairman has not been a member of the Committee at all. That is exactly what the Bill provides for. Section 88, sub-section (*8*) [*now* section 95, sub-section (*4*)], provides that—

'Every Sub-Committee shall consist of not less than three or more than six Commissioners, and the General Committee may at any time direct that the Chairman shall also be a member of any Sub-Committee.'

"The Chairman need not be a member of any Sub Committee. There is nothing to make him a member of any Sub-Committee unless the General Committee so directs. So that it will still be possible under this Bill, just as it has been in the past, to appoint Committees of which the Chairman is not a member. All that the section we are now discussing provides for is that, if the Chairman is a member of any Sub-Committee, he is to be in his proper place, that is, in the chair."

[*Dr. Asutosh Mukhopadhyaya.*]

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjee, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that the following amendments be made in section 88 (*now* 95), namely:—

(1) that the following sub-section be inserted after sub-section (*1*):—

"(*1a*) In every case in which an appeal lies to the General Committee from any proceedings of the Chairman, such appeal shall be heard and decided by a Sub-Committee constituted under sub-section (*1*)."

(2) that the following words be added at the end of sub-section (*3*) [*now* (*4*)]:—

"other than a Sub-Committee referred to in sub-section (*1a*)."

He said:—"Sub-section (*3*) [*now* (*4*)] as amended will read:—

"(*3*) Every Sub Committee shall consist of not less than three or more than six Commissioners, and the General Committee may at any time direct that the Chairman shall also be a member of any Sub-Committee other than a Sub-Committee referred to in sub-section (*1a*)."

"It is not necessary for me to explain this amendment at any very great length. It will be in the recollection of the Council that when we were discussing section 8 (*now* 9), the Hon'ble Babu Surendranath Banerjee moved that

the Chairman should not be *ex officio* President of the General Committee, and two reasons were assigned in support of this amendment: first, that the Chairman as the head of the executive ought not to be the head of the General Committee; and, secondly, that, as appeals from his decision lie to the General Committee, he ought not to be President of that Committee. I suggested that, so far as this second ground went, it could be met by providing that appeals should be heard by the General Committee, such power of hearing appeals being delegated to a Sub-Committee of which the Chairman should not be a member. The Hon'ble Member in charge of the Bill assured me that that was the intention of the Government. I wish it to be distinctly understood that these amendments are not put before the Council from any want of confidence in the assurance given by the Hon'ble Member in charge of the Bill; but it may well happen that years after when the Hon'ble Member is no longer in charge of the Municipal Department of the Government, and the proceedings of this Council have been consigned to oblivion, some enthusiastic admirer of the Chairman may suggest that he should be a member of the Appeals Committee, and the General Committee may accept the proposition in entire ignorance of the history of the reason why his name was excluded. To guard against any such contingency, I have thought it proper to move this amendment, and I trust it will be accepted."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and ageed to.

The Hon'ble MR. BAKER moved that the following proviso be added to section 88, sub-section (*11*) [*now* section 95, sub-section (*12*)], namely:—

"Provided that, if the Chairman concurs in any action recommended by a majority of the members of any Sub-Committee, whether or not he is a member of such Sub-Committee, and considers that inconvenience would result from delay in taking such action, he may take such action without waiting for confirmation by the General Committee of the proceedings of the Sub-Committee; but, if the General Committee do not confirm the proceedings of the Sub-Committee, such steps shall be taken to carry out any orders passed by the General Committee as may still be practicable."

He said:—"The provisions of this amendment correspond with those of sections 64 and 66 of the present Act. They empower the Chairman, when he is in accord with the majority of any Sub-Committee and when he thinks that inconvenience would be occasioned by delay, to take action at once in

accordance with the opinion of the majority, without waiting for confirmation by the General Committee. As I say, these powers have been exercised by the Chairman under the existing law for the last ten years, and they have worked well, and I have never heard of their being objected to. It was only by an oversight that similar powers were not inserted in the Bill in the first instance, and we propose now to supply that omission."

The Hon'ble MR. APCAR said:—"We are now gradually coming back to the present Act. The object of this Bill was that the powers of the several municipal authorities should be defined. We are now getting gradually to undefine them. These amendments really are precisely those objections in the present Act which we have heard of before, in consequence of which we were told that the duties of the Chairman were in a fluid state. As I have read the Bill, and the grounds upon which the Bill has been brought in, and the objects of it, this power was deliberately excluded from it. Now we have it, suddenly, that this power is to be given to the Chairman, whether he is present at the discussion or not, whether he has been able to consider the questions in the light of the discussions that have taken place or not, if he happens to agree with one or two members of one of these Sub-Committees, he may at once take action. When there is this power given under the present Act, at all events we had the assurance that the questions would come before a comparatively large number of Commissioners. Now we may possibly have three members attending; we then should have by a majority of two a question of great moment decided, action taken, and then when action has begun to be taken or has been completed, we know what the result will be when it is placed before the General Committee. The General Committee will consider that they are precluded from opening the question again, and they will endorse everything that may have been done. But, under the present law, we have 12 and 18 members who are members of the Committee. They meet together and consider the questions together. The Chairman is always present, and he hears the discussions and is able to consider the questions in the light of the discussions that have taken place; but under the proposed law, this omnipotent and omniscient individual is able simply to do as he thinks fit. We do not know even that there will be a report of the proceedings placed before him; but because he thinks one side is right he immediately can take action. We are told it is for the purpose of preventing any delay in the administration, but we know that

matters of any important character can be taken up without delay if the Chairman chooses. We have to provide for all contingencies, and it may be that, when he thinks that there is some question in which the General Committee will not accede to his desire, he will take action, and then the whole question would be practically decided. I think, Sir, that this is a provision which ought not to find a place in the law. The General Committee meet once a week. These powers have been given in the present Act because the meetings of the Corporation take place once a month under the law. Latterly there have been more meetings than just the monthly meeting, but a very short time back there was just that one meeting in a month, and in such circumstances it was very desirable that the Chairman should have authority to take action promptly; but now these circumstances are altered, and the confirming authority will meet at least once a week; and in these circumstances, I think, to give power to the Chairman to act in such wide terms is really taking away the substance of self-government altogether."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I must also oppose the amendment. My hon'ble friend in charge of the Bill has proceeded upon the analogy of the present law. I do not think he is entitled to fall back upon the present law. The present law and the law that is to be are two different things altogether. The great drawback in the present law was alleged to be that the Executive was not sufficiently strong; that the Corporation had the power of interference to a very considerable extent which stood in the way of prompt and vigorous action on the part of the Executive. All that is now proposed to be changed; the Executive will be rendered strong, far stronger than they are at present, and I strongly object to the further strengthening of the Executive by these side issues. It is somewhat remarkable that the Hon'ble Member in charge of the Bill did not submit this and a similar section to the Select Committee. Am I to understand that these sections did not occur to my hon'ble friend? If these matters had been brought up in Select Committee, we should have had an opportunity of considering them, and, what is more, I think, when deliberate attempts of this kind are made to stengthen the Executive still further, the opinion of the Corporation and the local bodies ought to have been solicited. This is not a small matter. The section involves a constitutional principle of some moment. The Executive is already

[*Babu Surendranath Banerjee.*]

strong; you want to strengthen it still further by falling back upon a provision which exists in the present law; but, Sir, my hon'ble friend the Member in charge of the Bill is not to have even the consolation of deriving any support from the present law. The circumstances under which the Chairman can now act in anticipation of confirmation by the Corporation will not be the circumstances under which he will act under the present Bill. Sir, as has been pointed out, the General Committee consists of the *elite* of the Corporation. Will the Sub-Committees be similarly constituted? The Standing Committees consist of a considerable number of members. But the Sub-Committees will comprise very few members. Here the Chairman is to act in anticipation of confirmation by the General Committee if he is in agreement about any matter with the majority of the Sub-Committee. The Sub-Committee will consist of not less than three members and not more than six members. Suppose, Sir, we have a Sub-Committee of five members, and the Chairman is one of the five: three are in favour of a particular course of action, including the Chairman, two are opposed to that particular course of action; the Sub-Committee are thus equally divided; it is the casting vote of the Chairman that decides the matter. Suppose in a case of this kind the Chairman acts in anticipation of sanction by the General Committee. What does it come to? If you analyse the matter it comes to this: that the Chairman acts upon his own independent responsibility in which he has been supported by only two members of the Committee, and he is able to pledge the General Committee to any particular course of action. I think, Sir, that is dangerous and may lead to complications. At the present moment a thing of this kind is impossible because of the numerical strength of the Committees. It seems to me, Sir, if you look at the matter from the point of view which I have ventured to suggest, it is not a safe thing to arm the Executive with powers of this nature. Having regard to the small numerical strength of your Sub-Committee it may sometimes happen that the Chairman may anticipate the decision of the General Committee in a matter in which practically there have been only two or three votes recorded on his side. I do not think that ought to be allowed, and looking at the question from this point of view, I hope and trust that the Hon'ble Member in charge of the Bill will see his way not to press this amendment."

[*Babu Boikanta Nath Sen ; Babu Jatra Mohan Sen ; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU BOIKANTA NATH SEN said :—"I would only beg to add one remark in opposing this motion. The necessity for this provision consists in the anticipated inconvenience which would result from delay As the General Committee meet weekly, and oftener if necessary, they would be able to take action on a Resolution being passed."

The Hon'ble BABU JATRA MOHAN SEN said:—"I wish to make one observation in connection with this matter in opposing this motion. If we refer to section 83 (*now* 90), sub-section (*4*), we find it provided that—

'The Chairman may at any time call a special meeting of the General Committee for the transaction of any business which, in his opinion, cannot be delayed until the next ordinary meeting of the Committee.'

"If the Chairman thinks that the matter is so urgent, it lies in his power to at once call a meeting of the General Committee. In the face of this section I do not think we ought to lend ourselves to anomalies which may arise in cases where the Chairman takes action in anticipation of the sanction of the General Committee which may not be given afterwards. When we have such a remedy in the hands of the Chairman himself, may not we as well omit this proviso?"

The Hon'ble DR ASUTOSH MUKHOPADHYAYA said:—"I feel that I ought not to give a silent vote on this question. The proviso, although it looks very similar to the provisions of the old law, upon close examination seems to be completely different in essence. In the first place, under the old law the Committee was the Committee of the Corporation, which was a Committee not invested with vague general powers but a Committee appointed for the purpose of enquiring into, and reporting upon, specific questions. The Sub-Committee we have to deal with in the present instance is a Sub-Committee of the General Committeo as distinguished from the Committee appointed by the Corporation. In the second place, this Sub-Committee may have delegated to it vague general powers, and the recommendation which the majority may make may relate to any question whatsoever. Then, again, my hon'ble friend Babu Surendranath Banerjee placed before the Council the case of a Sub-Committee of five, of which the Chairman was President. I would venture to take an even stronger case. There may be a Sub-Committee of three, the Chairman-

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

President, one member voting with the Chairman and the other dissentient, and it would be open to the Chairman to take action under the new section 88, sub-section (11) [*now* section 95, sub-section (12)]. Therefore, I venture to affirm, that no case has been made out for the insertion of this section; at any rate, I would venture to suggest that, if this section is to be inserted, for the words 'by a majority of the members of any Sub-Committee' ought to be substituted 'unanimously by a Sub-Committee;' that is to say, if the Chairman concurred in any decision recommended unanimously by a Sub-Committee, and if there was urgency, we might take it that the decision of such Sub-Committee would be little liable to be set aside by the General Committee; but to make it possible for the Chairman to take action, in anticipation, upon a recommendation made by a bare majority of a Sub-Committee is, I think, really objectionable."

The Hon'ble MR. BAKER, in reply, said:—"I think, Sir, the objections that have been raised to this exceedingly necessary and harmless proposal—for I can assure the Hon'ble Members that it is so—are based on some misapprehension. They entirely overlook the fact that the Chairman is only to take action in anticipation of the confirmation by the General Committee when he thinks that inconvenience would result from delay. Now, Sir, as the Hon'ble Babu Boikanta Nath Sen pointed out, the General Committee meets once a week; therefore, it can only be in cases where the urgency is so great that it would be impossible to wait for a week that any action will be taken under this section at all. That being so, the only occasion on which it will be necessary to exercise these powers is when the ugency is so great that he cannot wait for a week. All these prognostications of evil, and all that has been said about the Chairman acting on the opinion and with the concurrence of one single member, appear to be fanciful. I do not regard the smallness of the numbers of the Sub-Committees as in any way a mark of weakness. We know very well that it has been constantly said that the excessive numbers of the present Standing Committees are a source of weakness rather than of strength. The whole object of this provision is to prevent inconvenience to the public. These very provisions have been in force for ten years, and I have never heard one word of complaint made about them. They will be used in the future with the same discretion and the same good sense on the part of the Chairman as in the past, and I hope the Council will accept them."

The motion was then put and agreed to.

[*Babu Surendranath Banerjee.*]

SECTION 96.

The Hon'ble BABU SURENDRANATH BANERJEE moved that all the words of sub-section (*1*) of section 89A (*now* 96) beginning with the words "(to be specified in such resolution)" in line 4 to the end of the sub-section, be omitted, and that in their place the following be substituted :—

"relating to the purposes of this Act, as the Corporation may think fit."

He said :—"I will best consult the convenience of the Council if I read the section as amended by me. The section will run thus :—

'The Corporation may from time to time, by specific resolution, appoint a Special Committee to enquire into and report upon any matter relating to the purposes of the Act as the Corporation may think fit.'

"The provision in the Bill is to this effect :—

'The Corporation may from time to time, by specific resolution, appoint a Special Committee to inquire into, and report upon, any matter (to be specified in such resolution) which is reserved by this Act for the decision of the Corporation, and which is not at the time being under consideration by a Sub-Committee constituted under section 88 (*now* 95).'

"In this matter I follow section 38 of the Bombay Act, which gives the Corporation the right of appointing Committees to enquire into and report upon, any matter connected with the municipal administration of Bombay. Section 38 of the Bombay Act is as follows :—

'The Corporation may, from time to time, appoint out of their own body such and so many Committees, consisting of such number of persons, and may refer to such Committees, for enquiry and report or for opinion, such special subjects relating to the purposes of this Act, as they shall think fit.'

"The object is merely enquiry and report, and I do think the Corporation ought to have the power of enquiry and report in regard to all matters connected with the municipal administration of Calcutta. There might have been some danger of friction formerly when two-thirds of the representatives were elected by the people and one-third consisted of nominated members; but those elements of friction have apparently been removed in the present Bill under the orders of the Government of India. Therefore, there is not the smallest possibility of anything like friction occurring between the Corporation, the General Committee and the various Committees. The ends of harmonious and smooth administration having been ensured by the orders of the Government of India, it seems to me that there ought to be no

objection to the enactment of the provision which I have the honour to suggest for your acceptance. We follow the lines of the Bombay Act in this matter. The section of the Bombay Act has not been attended with any inconvenience. If it were attended with any inconvenience, I have not the slightest doubt it would have been amended; and, therefore, having regard to the fact that the Corporation is differently constituted now, from what it was when the Select Committee reported in April, and that we have such a provision in the Bombay Act, it seems to me that the Corporation should have the power which I propose to confer on it."

The Hon'ble MR. BAKER said:—"The Hon'ble Mr. Apcar has a motion to the same effect—No. 54. It would be convenient to take them together."

The Hon'ble MR. APCAR moved (amendment No. 54) that in section 89A (*now* 96), sub-section (*1*), for the words from "which is reserved by this Act" to the end of the sub-section, the words "relating to the purposes of this Act" be substituted.

He said:—"My amendment is practically to the same effect, but it does not go so far as that of my hon'ble friend Babu Surendranath Banerjee. I merely ask that the words 'which is reserved by this Act' to the end of the sub-section be eliminated, and the words 'relating to the purposes of this Act' be substituted. My hon'ble friend goes a little further, and requires that the Corporation may, from time to time, by specific resolution, appoint a Special Committee to enquire into, and report upon, any matter relating to the purposes of this Act as the Corporation may think fit. My hon'ble friend has said that, if in Bombay this had been found to work disadvantageously, it would have been modified; but, as a matter of fact, this has been introduced in the last Act of Bombay. The previous Act, which was amended by the Act of 1888, did not include this provision, and it was because they felt the want of it that they introduced it in the Act that is now in force. And it has been found to be a very useful power. I ask this to be considered: that it cannot be suggested that there can be any harm done in the administration at all, no obstruction whatsoever, because there cannot be any action taken as the result of any Committee of this character; and we know that in Bombay nearly all the great works have been introduced in consequence of the consideration by such Special Committees as are here referred to. As the Bill at present stands, it permits only of Committees being formed

with relation to those few questions which are reserved for the consideration of the Corporation. All that I seek is that an opportunity be at least given to them, if they think necessary, of a discussion with regard to other works, and, as a matter of fact, we know from practice it has resulted in good in Bombay. There is no such restriction in the Bombay Act as is contained in the Bill; and, so far as this particular section is concerned, the concession that has been made is of little practical value. So that, in all circumstances, I would ask that there should be a greater power given for discussion by Committees by the Corporation. It would not be in General Meetings where long discussions take place, and where, it might be suggested perhaps, there would be time wasted. Whatever work would be required to be done would be done in Committees to which any specific questions could be referred. I will give one instance of an important work being brought about by reason of a Committee, such as is contemplated here, if the power that I seek now to introduce in this section is given. The Tansa Water-works were; I am informed, due to action taken of this character, and when we find it is a matter which, if introduced, will not in any way interfere with the administration, and will be entirely for the good of the public, I cannot conceive why there should be any objection raised."

The Hon'ble MR. BAKER said:—"In order that the real bearings of this amendment may be made clear, I will ask the Council to go back a little and to consider what the structure of the new constitution of Calcutta is, and the bearing of the amendment upon it. The central idea of the scheme is to appoint three co-ordinate municipal authorities—the Chairman, the General Committee and the Corporation; and to divide up between them the manifold powers, functions and duties which are enumerated in the Bill. Each of these three authorities is to be independent within its own sphere, and neither of them is to interfere with the others except where it is so expressly provided.

"The functions of these respective authorities are as follows. To the Chairman is assigned the executive duty of carrying the law into effect; to the General Committee is assigned the management of those details which involve the exercise of discretionary power, and which are too important to be left to the Chairman alone; lastly, to the Corporation are assigned the power of the purse, the power of legislation, and the power to settle and shape broad questions of policy and large schemes of improvement. That, Sir, is the ruling idea of the Bill.

[Mr. Baker.]

"Now, let us consider how it bears on the subject-matter of these two amendments. As regards the General Committee, we know that the duties which devolve upon them are exceedingly numerous and exceedingly intricate, and for that reason we have given them power to appoint Sub-Committees from their own number and otherwise, and to delegate to them a large part of their duties. That power is absolutely essential, and, as I have said, it is necessary that it should be freely exercised. Without this power, the General Committee will be absolutely swamped with work. But when we come to look at the Corporation, the position is different. The duties of the Corporation which I have just described are such as can be performed by a large deliberative body. They are not executive; they are not appellate or judicial; and they contain little or nothing in the way of administrative detail. Therefore, it seems to me, Sir, that there is little or no necessity for the Corporation to appoint subsidiary Committees or to depute or delegate to Committees any part of its own duties. and I think it would be almost inconsistent with the scheme of the Bill that they should do so. But there are one or two functions of the Corporation to which that description does not fully apply. In the course of the Select Committee we provided, among other things, that the control of markets should be withdrawn from the General Committee and made over to the Corporation. That was done rather against my will, but, any way, it was carried. Then the Corporation has to consider the budget, and it is possible that they might find it convenient to consider the budget in the first instance, not in their whole body, but by means of a Special Committee. Similarly, they may also find it convenient to exercise their control over markets in the same way. I think the case of loans also is another instance of the same kind.

"To provide for cases of this kind we, in the Select Committee, inserted this section, 89A (*now* 96), which gives the Corporation power to appoint Special Committees to consider and report on any matter which is reserved by law for the decision of the Corporation, and, if necessary, to delegate their own powers to such Special Committees.

"I submit that this gives ample power to the Corporation to deal with all those functions of theirs which are not such as can be most conveniently and appropriately dealt with by the Corporation as a whole. The hon'ble movers of the amendments wish to go much further than this. They wish to empower the Corporation to appoint Committees on any and every subject, whether the subjects are in any way under the control of the Corporation or not. The

obvious effect of that would be to give the Corporation power to interfere in every branch and detail of the municipal administration. The section already gives the Corporation full power to deal, by means of subsidiary Committees, with all matters which are subject to their control. It is neither necessary, nor right, nor wise to extend that power to matters which are not subject to their control.

"It is true, as the Hon'ble Mr. Apcar said, that they did not claim the power to pass any orders on the reports of their Special Committees; but we all know what that means. You appoint your Committee; it makes its enquiry and submits its report. The report comes before the Corporation, and is discussed at great length, and strong opinions are expressed and probably a vote taken. In everything except name, that is tantamount to a direct order to the executive or to some other co-ordinate authority to take certain action; and at all events, even if you do not regard it as an order, it implies criticism, and criticism of matters which, *ex hypothesi*, are outside the province of the Corporation. I think, Sir, if we allow this amendment to be carried, we shall destroy at a stroke the whole separation and division of functions which it is the main object of the Bill to establish."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, said:—"I cannot understand what was the intention of the framer of the Bill in inserting this clause 'which is not at the time being under consideration by a Sub-Committee constituted under section 88' when the matter is reserved for decision under the Act by the Corporation. Cannot it be considered by a Sub-Committee appointed by the General Committee?"

The Hon'ble MR. BAKER said:—"Yes, it can. Many matters are first dealt with by the General Committee and go finally to the Corporation for decision."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"The gist of my hon'ble friend's reply is summed up in the concluding sentence of his observations. That sentence I will quote:—

'If we accept the amendment we shall destroy at a stroke the whole organisation of the Bill and the system of co-ordinate authorities.'

"I venture to join issue with my hon'ble friend as regards this view of the matter. I think, Sir, we are indebted for the system of co-ordinate authorities to the Bombay Municipal Act. Ours is a derived system. We have borrowed what light we possess on the subject from Bombay. They

have got the system of co-ordinate authorities there, and, despite such a system in Bombay, they have got the section which I have just read out—a section which empowers the Corporation to appoint Committees to enquire into and report on all matters relating to the municipal administration of the city. A section such as this does not in the smallest degree jeopardize or impair the system of co-ordinate authorities in Bombay. We have got, then, in Bombay the law which I invite this Council to apply to Calcutta. We have got this law in Bombay, we have got the system of co-ordinate authorities standing side by side with this law and flourishing side by side. This law does not militate against the principle of co-ordinate authorities in Bombay. Why should it militate against the principle of co-ordinate authorities in Calcutta? Nay, more, I go a step further, and I will say this—that it is this principle which has been the saving principle of the Bombay municipal system. It is this principle which has given to the Bombay Corporation the power of criticism, the power of enquiry extending over the entire domain of municipal administration, with the result that the Executive is subject partly at least to that responsibility to which it is essential the Executive should be subject, in order that it might be successful in its work. If the Bombay system has been successful, it is because the Executive is made partly responsible to the Corporation by the section which I invite the Council to accept. If you do not embody the provision which I recommend in the law, you relieve the Executive altogether of that sense of responsibility to which under the operation of this section the Executive would be subject, in relation to the Corporation. Therefore, I think it is most important for the very success of the experiment which you are about to try that we should have a section like this which would enable the Corporation not to interfere, because, as far as active interference is concerned, my amendment does not in any way contemplate it, but will confer on it the right to criticise, the right to enquire into and report. It will enable the Corporation to educate public opinion and bring to bear the wholesome moral pressure of a healthy public opinion upon the action of the Executive. What can the public know as to the business of the Municipal Executive? What can the newspapers possibly know about the doings of the Executive? If a Committee were appointed, that Committee would report; if that report was considered by the Corporation, and if the Corporation recorded a resolution with regard to it, the public would be furnished with information, upon the basis of which they could form their opinions upon the action of the Executive. Therefore, Sir, this section enables the Bombay Government and the Bombay

public to exercise the salutary influence of that healthy public opinion withou which no Executive, be it the highest in the land, can satisfactorily discharge it responsible duties. I speak with some feeling about this matter, because I an anxious for the success of the experiment which you are about to try. I do no want that the Corporation should in any way impair the efficiency or vigour o executive action; but I do want that the Corporation should exercise a health moral influence over the Executive. I do want that the public should be abl to exercise the influence of a healthy opinion upon the Executive; and, unles you arm the Corporation with the power of enquiry, the power of investigatio and report, you deprive the public of those resources which would enable ther to form a healthy and sound opinion. I think these are considerations whic ought to weigh with the Council. Not the smallest desire have we to interfer with the Executive. We do not want that the Corporation should ask them t do this or that or interfere with them in any way. The everyday work of th Executive will go on as usual, but the Corporation will be able, by the enquirie which they will set on foot, to elicit important facts in regard to which the may record resolutions, and this will help the public and the Government t form a sound opinion with regard to the proceedings of the Executive I cannot understand why the Hon'ble Member in charge of the Bill shoul stand in the way of a useful provision like this. It does not weaken th Executive; it does not weaken the Committees; it does not weaken th Corporation. The work of the Corporation will go on as usual, but th Executive will be brought under that sense of responsibility, that deference t public opinion, which in these civilised times and in civilised countries const tutes the greatest safeguard of sound, efficient and righteous administration."

The Hon'ble MR. APCAR, in reply, said:—"It has been suggested that I di avow any intention of interference with the Executive. I go much further tha that. I distinctly desire to show that there is absolutely no interference wit the Executive, and it is not with the idea in any way of interfering with the adm nistration at all that I seek for the powers which would be given under the amend ment that I propose. It seems to me that the Hon'ble Member in charge of th Bill does not want any help or advice from the Corporation, and he goes so fa as to resent any criticism by the Corporation. Well, if this is the scheme of ad ministratiou, I am afraid it is doomed to failure. Are the Corporation not to b allowed, in any way or shape, to criticise what has been done? Everything to be done in the dark without any opportunity whatsover of expressing the views with regard to any matter at all, whether they have the power to interfe or not. Here we have got a proposal that I now am seeking to introduce int

this Bill, which has been introduced into the law in Bombay after experience had taught them that it was required, and we know from the working of the Corporation in Bombay that it has been of the greatest use and practical benefit, by reason of the many suggestions that have been the outcome of the enquiries: nevertheless, there is the most uncompromising opposition offered by the Hon'ble Member in charge. I have given an illustration of the great Tansa Water-works in Bombay which were the result of the deliberations of a Committee appointed under similar powers as those which I seek to give to the Corporation."

The Hon'ble MR. BAKER said:—"A large scheme of water-works is one of the matters reserved by law for decision by the Corporation."

The Hon'ble MR. APCAR said:—"That would be with reference to expenditure that has to be incurred: but whether it would be advisable in any way to introduce these water-works (and there may be many other kinds of work), would be, I take it, for the consideration of a Committee such as I refer to. We are told the General Committee will be swamped with work; they want to have an opportunity of calmly considering the questions which the Corporation desires to dispose of, and here we have an utterly harmless, inoffensive power, the proposal of which is resented, although it may be, as I have shown by illustration, of benefit to the public. I am sorry to find that the Bill is to be pushed forward on such lines as these."

The Hon'ble BABU SURENDRANATH BANERJEE'S motion being put, the the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Sureadranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble Babu Surendranath Banerjee's last amendment having been lost, the Hon'ble MR. APCAR, by leave of the Council, withdrew his motion for the amendment of section 89A (*now* 96).

He said:—"I will abide by the result of the Hon'ble Babu Surendranath Banerjee's motion, and I will not trouble the Hon'ble the President to put my amendment to the Council."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 89A (*now* 96), sub-section (1), line 3, after the word "Committee" be added the words "consisting of not less than five and not more than nine Commissioners."

He said:—"I think this amendment has the merit of being harmless and at the same time very useful. In the first place, I desire to remind the Council what has been said in other places by people who are better acquainted with the working of the Calcutta Municipality than I am, that the chief source of weakness of the Committees appointed by the Corporation lies in what might be supposed to be their source of strength, namely, their unwieldy size. In the next place, I desire to point out that in section 88, sub-section (*3*) [*now* section 95, sub-section (*4*)], we have provided that every Sub-Committee appointed by the General Committee shall consist of not less than three and not more than six Commissioners, and, unless a similar provision is introduced into this section, it might so happen that when the Corporation would proceed to appoint a Special Committee to enquire into and report upon any particular matter, a gentleman might get up, as it often happens at meetings, and propose X, and X would propose Y, and so on, till in the course of five minutes it would be found that the Committee was so large that it was practically useless. This, at any rate, is my experience of what happens in a place other than the Corporation. Then I desire to point out further that a Special Committee appointed by the Corporation cannot be of a miscellaneous character. If you will read paragraph 20 of the despatch of the Government of India, you will find the following statement:—

"I am also to suggest that it might be desirable to lay down rules for the appointment of the Special Committees and Sub-Committees which would secure their being truly representative, in respect of their constituent elements, of the Corporation or General Committee appointing them. The provisions regarding the making of rules and bye-laws for the conduct of the business of Special Committees and Sub-Committees under sections 89A and 590 (*now* 96 and 559), in connection with sections 595 and 597 (*now* 566 and 569),

might be extended to include their constitution in general agreement with the principles already laid down. It might not be necessary or feasible for all such Special Committees and Sub-Committees to be homogenous in constitution with the body appointing them; but it is clear that in some cases at least such homogeneity alone would secure efficiency and obviate friction."

"This makes it manifest that these Special Committees cannot consist of anybody and everybody. There must be a representation of the different elements of the Corporation, and I think it is very desirable that there should be some limit, and the limit which I propose is that the minimum should be 5 and the maximum 9. If the opinion of the gentlemen who are better acquainted with the ways of the Calcutta Corporation is in favour of altering these numbers, I am quite ready to fall in with their view; but my point is that some minimum and some maximum should be fixed."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I may say on behalf of the Select Committee—and I think the Hon'ble Member in charge of the Bill will support me—that we deliberately left the number open to be decided by the Corporation. Of course too large a number would not be desirable, but at the same time, having regard to one of the objects of the Bill, which is to enable a large number of Commissioners to take part in the working of the Corporation, it would not be desirable to fix any maximum, and that I believe was the reason why we left the number open. A statement was made by the hon'ble mover of the amendment as to his experience with regard to what occurs at meetings of the body with which he is connected, namely, that some one would propose X, and X would propose Y, and so on, until the number is inconveniently raised. That is not the practice of the Corporation at all. The practice of the Corporation is first to fix the number of the Committee and having done so to submit the names. There was a reason why the number of the General Committee and the number of the Sub-Committees have been fixed: there is a payment of fees made to members of the General Committee and of Sub-Committees of the General Committee; but no member of a Committee of the Corporation attending a meeting of the Committee gets a fee. Therefore, there was no object in fixing the number. I have not a very strong feeling about the matter; but it strikes me that having regard to the object which we have in view, viz., that a large number of Commissioners should take part in the work of the Corporation—it would be as well to leave the matter

of number to be determined by the Corporation in each individual case. I know there have been cases where there have been Committees of the whole Corporation, but I think the Corporation has found out its mistake, and the steady trend of opinion now is to make the Committees workable—not too large nor too small. It would be a pity to interfere with the discretion which the Corporation has in recent years exercised with satisfaction. That is my personal feeling about the matter. If the number is to be fixed, I think the maximum ought to be more than 9. You have fixed 12 as the maximum of the General Committee. I would fix 16 as the maximum of the other Committees; but I do not know what my friend the Hon'ble Mr. Apcar may have to say about this proposal."

The Hon'ble MR. APCAR said:—"I had no idea of taking part in the discussion, but I am being dragged in by my hon'ble friend Babu Surendranath Banerjee. I have got no very strong views about this amendment. I think on the whole, however, it is a matter which might well be left to the Corporation. I agree with my friend that, although there was a mistake made for a little while, the Corporation came to their senses very quickly; and they have not abused the power that was given to them to appoint the number of any Committee, and it is perfectly true that we first fix the number and then we elect the members. So that there is not the same tendency of the Committee outgrowing limits as the Hon'ble Dr. Asutosh Mukhopadhyaya is apparently used to in the body that he ornaments; and, so far as this particular question is concerned, I think, if the Hon'ble Dr. Asutosh Mukhopadhyaya had been better acquainted with the actual practical working of the Corporation, he would have hesitated to bring forward this motion."

The Hon'ble MR. BAKER said:—"I purposely deferred speaking until after the two Hon'ble Members who represent the Corporation had expressed their views, because, Sir, it seems to me that, as these Committees are to be Committees of the Corporation, we should do well to pay attention to the views which their representatives express. At first I was disposed to think that the amendment was one which should be accepted, but after hearing the views expressed by the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Apcar, I propose to vote against it."

The motion was then put and lost.

[*Mr. Apcar; Mr. Baker.*]

SECTION 97.

The Hon'ble MR. APCAR moved that in section 90 (*now* 97), sub-section (*1*), for the words "signed by the President after each meeting" the words "laid before the next ensuing meeting and signed at and by the President of such meeting" be substituted.

He said:—"I desire to make a very small change in this section which will in no way affect the working of the administration. It is intended simply to give power to see that the resolutions and proceedings have been properly recorded. Sub-section (*1*) of section 90 (*now* 97) runs thus:—

'Minutes of the proceedings of each meeting of the Corporation shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the President after each meeting.'

"I ask that the proceedings of each meeting be laid before the next ensuing meeting and signed at and by the President of each meeting.'

The Hon'ble MR. BAKER said:—"This is a very small matter, and no doubt it is a perfectly reasonable and legitimate arrangement. But it may happen that the President of the ensuing meeting was not the President of the meeting the proceedings of which are to be confirmed; it is better therefore that the President of the original meeting should sign the minutes of that meeting at once. That is the existing practice. I have never heard it objected to, and I see no reason to alter it."

The Hon'ble MR. APCAR, in reply, said:—"I have followed intentionally the wording of sub-section (*2*), as I thought that would be the most acceptable form. As for the possibility of the subsequent meeting being presided over by another President, that would not matter, and there would be no bar to his signing the proceedings of the previous meeting. The object of my motion is only to give an opportunity to see that the proceedings have been correctly recorded. The Hon'ble Member in charge of the Bill has not stated that there would be any inconvenience, and I think it is the more orderly course to pursue. The proceedings of the previous meeting are put to the members of the ensuing meeting, and the President asks whether they should be confirmed. That is the ordinary course at all business meetings."

[*Mr. Mackenzie; Mr. Apcar; Babu Surendranath Banerjee.*]

The Hon'ble MR. MACKENZIE said:—"The Hon'ble Mr. Apcar is materially correct as to the procedure at business meetings; the minutes of proceedings are generally circulated, and, if found correct, the President of the next meeting, whoever he may be, signs them at that meeting."

The motion was then put and agreed to.

The Hon'ble MR. APCAR also moved that in section 90 (*now* 97), sub-section (*2*), for the words "signed at and by the President of the next ensuing meeting" the words "laid before the next ensuing meeting and signed at and by the President of such meeting" be substituted.

He said:—"This amendment is of the same nature as the last. I only ask to bring sub-section (*2*) into conformity with sub-section (*1*), and all that is material to be changed is the inclusion of the words 'laid before.' But this change requires some further alteration in the wording, and therefore I ask that the words in my amendment be substituted."

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that, after the word "minutes" in line 1 of sub-section (*1*) of section 90 (*now* 97), the following words be inserted:—

"of the names of the members present and."

He said:—"This is a small matter. In the case of meetings of the General Committee the names of the members present are to be entered, but in the proceedings of the Corporation the names of the members present are not to be given. I want to assimilate the two."

The motion was put and agreed to.

SECTION 99.

The Hon'ble BABU SURENDRANATH BANERJEE moved that, after the words "Local Government" in line 2 of section 92 (*now* 99), the following words be inserted:—"and to every member of the Corporation;" and that the same words be inserted after the words "Local Government" in lines 12 and 13 of the same section.

He said:—"It is the present practice for every member of the Corporation to get a full report of the proceedings of every meeting of the Corporation as well as of the General Committee and of all Special and Sub-Committees."

[*Mr. Baker; Mr. Apcar; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"I object to this being made a statutory obligation. It is done at present, but it is not provided for by law anywhere. Under the second clause of section 92 (*now* 97), it is necessary to send not only a copy of the minutes of proceedings, but also a copy of all papers. What is now proposed must give rise to a great deal of expense in printing, stationery and postage. The minutes of proceedings are not in all cases read by the Commissioners who receive them. I object to making it a statutory obligation to send them to every member of the Corporation. I think it ought to be left to the Corporation and the General Committee to decide whether in any case the proceedings and other papers should be sent to members of the Corporation."

The Hon'ble MR. APCAR said:—"With regard to the minutes of proceedings, I may say that the General Committee have adopted a system of delegation; they have delegated to one of their members the duty of seeing that they have been correctly recorded, and he reports to the meeting. I hope this amendment will be conceded, so that every member of the Corporation may be kept informed of what is being done by the General Committee. The Commissioners in general have hardly anything practical left for them to do, and it is not much of a privilege to enable them to see what the General Committee is doing. I do not desire that all the papers which might be considered by the General Committee should be sent to every member of the Corporation, but they should have some information given to them, and, with regard to the question of statutory obligation, this section requires copies of all papers to be sent to the Local Government, which, after all, is really a theatrical display, for the Local Government can require the submission of all papers without there being any statutory obligation. But I am quite willing to meet my hon'ble friend if his opposition to the amendment is for the purpose of e luding all the details regarding matters which are mentioned in the proceedings of the General Committee. At all events copies of such proceedings as may be sent to the Local Government should also be supplied to the members of the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"It is the business of the Legislature to give a permanent form to existing practice; what is custom should be stereotyped and transformed into law. The custom is to send copies of all these proceedings to every member of the Corporation; every

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen.*]

scrap of paper is sent to every member; and, if it is and has been the practice for every member to receive these papers, there is no reason why that practice should not be stereotyped into law. I hope the Hon'ble Member in charge of the Bill will accept this amendment."

The Hon'ble MR. BAKER said:—"There is no objection to every member having a copy of all proceedings and papers being sent to him, but I object to making it a statutory obligation. Let it remain as it is."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I consider it very desirable having regard to the fact that the members of the Corporation will under the Bill know very little of what is done. If what I ask is done, the members will be kept fully informed of what is going on."

The Hon'ble MR. BAKER said:—"If it is desirable they can have them. All I say is, do not make it compulsory that they should have them."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 92 (*now* 99), line 7, for the words "together with" be substituted "and, if the Local Government so directs in any case, shall also forward."

He said:—"It seems to me to be absolutely unnecessary to send to the Local Government every single bit of paper which might be laid before the General Committee, a Sub-Committee, a Special Committee or the Corporation. I think that the procedure laid down in section 526 of the Bombay Act will be found sufficient for all practical purposes. I propose to make it obligatory on the Chairman to forward copies of minutes of proceedings to the Local Government: if it appears to the Government that further enquiry is necessary in any particular case, they may apply for the papers, which would then be duly forwarded."

The motion was put and agreed to.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 92 (*now* 99) the words "the minutes of the proceedings of such meeting were signed as prescribed in section 90 (*now* 97)" be substituted for "such meeting took place."

[*Babu Jatra Mohan Sen; Mr. Baker; Babu Surendranath Banerjee.*]

He said:—"Section 90 (*now* 97) prescribes the rules under which the proceedings of meetings of the General Committee, of Sub-Committees and of Special Committees are to be signed. In the case of Special Committees, the General Committee and Sub-Committees, they are to be signed at the subsequent meetings by the Chairmen of those meetings, and in the case of meetings of the Corporation they are to be signed by the President after such meeting, but it is not stated how long after such meeting. In section 92 (*now* 99) provision is made to send copies of minutes of all proceedings to the Local Government within ten days from the date on which the meeting took place, but it is not known whether such proceedings will be signed within ten days. It is not desirable that any minutes of proceedings should be sent to the Local Government until they are prepared in full and signed. I therefore propose that the proceedings should be sent within ten days after they are signed as prescribed by section 90 (*now* 97)."

The Hon'ble MR. BAKER said:—"This amendment follows necessarily on the acceptance of the amendment moved by the Hon'ble Mr. Apcar in section 90 (*now* 97), sub-section (*2*); therefore I accept it."

The motion was put and agreed to.

SECTION 100.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 93 (*now* 100) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that, if the last amendment be lost, for section 93 (*now* 100) the following clause be substituted for section 93 (*now* 100):—

"Every member of the General Committee shall be entitled to receive a fee of thirty rupees for each meeting of the said Committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof:

"Provided that no more than one fee shall be paid to any member for his attendance at all such meetings in any week."

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to the above clause; or, if that clause be not carried, then to section 93 (*now* 100):—

"Provided that no fee shall be paid to a Hindu or a Muhammadan or an official member."

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

The Hon'ble MR. APCAR moved that section 93 (*now* 100) be omitted.

The Hon'ble MR. APCAR also moved that, if the last amendment be lost, the following amendments should be made in section 93 (*now* 100), namely:—

(1) the words "and every member of a sub-committee a fee of sixteen rupees," and the words "or sub-committee" be omitted;

(2) after the words "is transacted," the words "and which he attends from the beginning to the end thereof" be inserted;

(3) for proviso (*a*) substitute the words "no more than one fee shall be paid to any member for his attendance at all such meetings in any one week;"

(4) after clause (*b*) add the following:—

"(*c*) The fee shall be payable to a Commissioner appointed under section 7, sub-section (*1a*), clauses (*a*), (*b*) or (*c*) [*now* section 8, sub-section (2), clauses (*a*), (*b*) and (*c*)], and to no other.

(*d*) No fee shall be payable to any Commissioner who is in receipt of a salary from the Government."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that section 93 (*now* 100) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that, if the last amendment be lost, the following amendments should be made in section 93 (*now* 100), namely:—

(1) at the end of the first paragraph, after the word "transacted" add the words "and which he attends from the beginning to the end thereof," and

(2) add the following as proviso (*c*):—

"Not more than four fees shall be paid to any member for his attendance at all meetings in any one month."

The Hon'ble BABU JATRA MOHAN SEN moved that section 93 (*now* 100) be omitted.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, moved that the words "and every member of a Sub-Committee a fee of sixteen rupees" and the words "or Sub-Committee" in section 93 (*now* 100) be omitted.

[*Babu Boikanta Nath Sen; Babu Surendranath Banerjee.*]

The Hon'ble BABU BOIKANTA NATH SEN moved that section 93 (*now* 100) be omitted.

The Hon'ble BABU BOIKANTA NATH SEN also moved that if the last amendment be lost, the following should be added to section 93 (now 100):—

"(*c*) not more than thirty fees shall be paid to any member for his attendance at all meetings in any one year."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"This is a very important part of the Bill, and it represents a striking departure from the provisions of the existing law. It is an innovation on our municipal system, and I may say it is a departure from the principles upon which the municipal system of the United Kingdom is based. The other day the Hon'ble Member in charge of the Bill remarked, with reference to certain observations that I had made, that he relied on the provisions of the English Public Health Act. I should like to ask him if, with regard to this matter, he will allow himself to be guided by the teachings of English experience? But possibly his answer will be that the situation is very different. I accept that statement. The situation is totally different along the entire line, but that does not prevent the Hon'ble Member from importing the provisions of the English law when it suits him. But, however that may be, the municipal system of the United Kingdom recognises no other incentive to the performance of municipal duties than public spirit and the desire to promote the public well-being. This Bill, however, proclaims to the world that Englishmen in India recognise other motives than those which prompt their countrymen in England—motives different from those prompted by public spirit and regard for the public welfare. I should like to ask the Hon'ble Member in charge of this Bill whether he is prepared to stamp with the seal of legislative sanction a reflection of this kind upon the European community in this country. I am distinctly of opinion that the reflection is wholly unmerited. I will go further, and say that Europeans in this country require no other incentive than the stimulus of public spirit in the discharge of their public duties. In the past history of Calcutta, distinguished Englishmen have done admirable service for the good of the Corporation and the town. The names of such men as John Blessington Roberts, of James Wilson, of Mr. Brookes, of Mr. Wyman and others are cherished recollections in the minds of the people of this country. They did their duty without any remuneration save the approbation of their own

consciences and the applause of their fellow-citizens. Are there no such men among Englishmen now in this country prepared to emulate their example? Why, Sir, there are facts within our knowledge which point to the presence of such men even in this Council. We have had forty meetings of the Select Committee on this Bill, and my hon'ble friend who so worthily represents the interests of the Trades Association (Mr. Spink) attended every one of those meetings. Mr. Turner, who represented the Chamber of Commerce, attended every meeting, with the exception of two, and those who are sitting here from day to day know with what devotion and zeal my hon'ble friends Mr. Mackenzie and Mr. Spink are assisting us in our work at considerable sacrifice of their own personal interests. Therefore, I am entitled to hold that there is enough of public spirit among the members of the European community in Calcutta to justify the hope that they will do their duty in the Corporation without the stimulus of fees. But after all, if it is deemed that the members of the European community do need the incentive of fees, I am prepared to say, on behalf of the Hindu and, I may add, of the Muhammadan community, that they require no such stimulus. For the last 23 years, Hindus and Muhammadans have worked in the Corporation and the General Committee with a zeal and earnestness for which they are entitled to the highest credit, and they never sought any fees at all. The Hon'ble Member in charge of the Bill will say—'It is impossible to introduce invidious distinctions in this Bill; if you pay fees to European non-official members, you must pay fees also to Hindus and Muhammadans.' To that my reply is that the whole Bill is a monument of invidious distinctions, and I will only refer to one matter. Members of the Corporation attending meetings of the General Committee and of Sub-Committees of the General Committee are entitled to the payment of fees, but members of the Corporation attending meetings of the Corporation and of Special Committees appointed by the Corporation are not entitled to any fees. You give fees to members attending meetings of one class; you refuse to give fees to members attending meetings of a different class. You make a distinction between Committees of the Corporation and Committees appointed by the General Committee. That is an anomaly, and, as I have more than once remarked, we are not concerned as legislators with the removal of anomalies; we are, however, far more interested in safeguarding the interests of the public purse. If Hindus and Muhammadans are willing and able to attend meetings of the General Committee and of Sub-Committees of the General Committee without the

[*Babu Surendranath Banerjee.*]

stimulus of fees, it seems to me that it is an absolute waste of money to pay fees to them. It is an expenditure of the public funds for which there is no justification, and I venture to say that the same remarks apply to the official members of the Corporation. They are paid for doing the general work of the country; municipal work is a part of the general work of the country, and therefore they need not be paid over again for municipal work. As a matter of fact, I can say that the official members of the Corporation have been most assiduous in their attendance at meetings of the General Committee and of the Corporation. The Hon'ble Mr. Oldham is a member of the General Committee, and so is the Hon'ble Rai Durga Gati Banerjee. I do not know of any member of the Corporation who has been more assiduous in his attendance than these two hon'ble gentlemen. Therefore, I submit that official members of the Corporation also do not require the stimulus of fees to ensure their attendance at meetings of the General Committee. It has been reported to me on authority that I consider sufficient that some time ago a discussion took place at a meeting of the Port Trust in which a strong protest was elicited from the official members against the payment of fees. Having regard to all these considerations I am of opinion that fees ought not to be paid to the European members of the Corporation, for they have worked in the past with great zeal and devotion without the stimulus of fees. Both Hindus and Muhammadans and European official members have honourably worked in the past without the stimulus of fees; and fees therefore need not be paid to them. I desire in this connection to point out the positive danger which is likely to arise from the payment of fees. At the present moment the ablest members of the Corporation are elected as members of the General Committee; they do not canvass; they decline to canvass. My connection with the Corporation has lasted for 23 years, and I have been a member of the General Committee during the whole of those 23 years. When I was in England in 1897, I was during my absence elected a member of the General Committee, and during the 23 years in which I have been a member of the Corporation, I do not remember speaking to a single colleague of mine for his vote; and I believe that men like Babu Kally Nath Mitter, Mr. Apcar, Babu Nalin Bihari Sircar, Babu Narendra Nath Sen and others have never canvassed for their seats in the General Committee. Canvassing is a thing which is unknown to the more experienced Commissioners. But the moment you introduce the stimulus of fees, inferior men will appear in the arena and will canvass for votes, and you will open a door to practices which

cannot fail to be demoralizing. We decline to support any measure which is likely to result in the admission of inferior men to the General Committee. The monopoly of power is a thing which is tolerable; the monopoly of pelf is a thing which is intolerable to our instincts. I am perfectly certain that, if the system of the payment of fees is introduced, you will not get the best men to appear year after year as candidates for election to the General Committee. They will feel a delicacy in the matter, and they will decline to stand as candidates for election; they will not like it to appear that they want to have a monopoly of the fees. Therefore, you will lose the services of the best men on the General Committee. This is not only my view of the matter; it is also the view of my colleagues on the General Committee. I will, with Your Honour's permission, read to the Council extracts from some of the remarks made in respect of this question:—

'Babu Bhupendro Nath Basu was convinced that the payment of fees would be fatal to the continuance of the best men on Committees: they would be deterred from serving.

'The Hon'ble Babu Narendra Nath Sen considered the payment of fees to elected Commissioners most objectionable.

'Babu Bhupendro Nath Basu was of the same opinion. He believed it would operate to prevent good men from standing for election.

'Mr. Simmons remarked that the feeling against fees was that those elected on Committees in one year would feel disposed to make way for others on the next occasion; but in Joint-Stock Companies the same men would be found sitting on the Board year after year, and they were elected from time to time, because the shareholders felt confidence in their management of the affairs of the Company.

'Babu Kally Nath Mitter pointed out that in this Corporation the feeling of the members of the General Committee who had been re-elected year after year was strongly opposed to the payment of fees.

'The Hon'ble Babu Narendra Nath Sen thought that on this side of India people were likely to attribute mercenary motives to those who accepted fees, although the fees could in no case exceed Rs. 128 a month to any individual. There was no comparison between fees paid to the Directors of Joint-Stock Companies, which were Associations for profit, and the members of the Corporation.

'Babu Nalin Bihari Sircar observed that past experience showed that good men had been got to serve on Committees without fees.

'The Hon'ble Babu Surendranath Banerjee was certain that in England Members of Parliament and of County Councils were not paid fees.

[*Babu Surendranath Banerjee.*]

'Babu Kally Nath Mitter said that the majority of the Amalgamation Committee, on whose report the present Act was in a great measure based, were in favour of the payment of fees, but the Legislature unanimously rejected their proposal.'

"There is thus a strong apprehension on the part of those entitled to speak with authority on the matter that the payment of fees would be fatal to the election of the best men on the General Committee, and that is the view which I desire the Council to accept.

"It is said that this is the Bombay system, but I submit that the circumstances of Bombay and Calcutta are very different. Bombay is a commercial city in a far greater sense than Calcutta is. The commercial instinct is predominant there. The town is studded with mills, of which many of the Commissioners are Directors, and they are accustomed to the payment of fees. Under the Bombay Act only one fee can be paid to a member in a week; under this Bill as many fees may be paid in the course of a week as there are meetings during that time. Under the Bombay Act a member must attend from the commencement of a meeting to the end of it; here he need not do so. In Bombay there is no payment of fees for attendance at Sub-Committees; under this Bill fees are to be given to members of Sub-Committees appointed by the General Committee. Therefore, in this Bill you go much beyond what is provided in the Bombay Act; and yet you are introducing the system of the payment of fees for the first time into our municipal system. I do not think there is the smallest justification for going beyond the Bombay Act.

"This question of the payment of fees was first considered by this Legislature in 1888. It was incorporated in the Bill, but was thrown out by the Select Committee after careful consideration. Sir Henry Harrison alone was in favour of it. The other members of the Select Committee were opposed to it, and I believe Sir Henry Harrison himself subsequently changed his opinion.

"These then are the grounds on which I venture to rest my amendment. I say, first, to the representatives of the European community that gentlemen of their community have worked admirably in the Municipality of Calcutta without the stimulus of fees; they did not need in the past the stimulus of fees to work with devotion and zeal for the good of the city. But admitting that times have changed, that circumstances have altered, admitting that they should be paid fees now, then I say pay fees to the European members of the Corporation and to no one else. Hindu and Muhammadan members do

[*Babu Surendranath Banerjee; the President; Mr. Apcar.*]

not want fees; they have done good work without receiving fees. The official members of the Corporation have done likewise. They are paid for the general work of the country, and they need not be paid fees over again. If all these arguments make no impression upon you, then I beg you to follow more closely the provisions of the Bombay Act. I ask you to make the assimilation as close as possible. The Bombay Act does not authorise the payment of fees to members of Sub-Committees; why should we? The Bombay Act does not authorise the payment of more than one fee in the week; why should we? The Bombay Act makes attendance from the commencement to the end of a meeting compulsory; why should we not do the same? If you insist on the payment of fees, let us have the Bombay system in its entirety. Some deference is due to the expression of opinion of the representatives of the Indian community. As a member of that community, I say we do not want fees, and, if you do pay us fees, it will be a waste of the rate-payers' money. Therefore, having regard to the strong feeling which exists in connection with this matter and to the provisions of the Bombay Act on the subject, I appeal to you to assimilate the Calcutta municipal law as far as possible to the Bombay Act, and above all I ask you not to make any payment to the members of the Hindu and Muhammadan communities who do not require the stimulus of fees to induce them to give their time and trouble to the service of the Corporation."

The Hon'ble THE PRESIDENT said:—"It will be convenient if the four Hon'ble Members who have given notice of amendments of a similar kind will now address the Council, so that the discussion may be taken up on all those amendments together."

The Hon'ble MR. APCAR said:—"I think that it would be an advantage if at this stage I move my amendments in connection with this matter. My amendment follows very much on the lines on which the Hon'ble Member who has just spoken has proceeded. My first amendment is that section 93 (*now* 100) of the Bill be omitted; my second motion is to exclude the payment of fees to the members of Sub-Committees; my third motion makes payment of fees possible only to members of Committees who attend meetings from the beginning to the end; my fourth motion is on the lines of the Bombay Municipal Act, that no more than one fee shall be paid to any member for his attendance at all

meetings in one week; my fifth motion is that after clause (*b*) the following be added:—

'(*c*) The fee shall be payable to a Commissioner appointed under section 7, sub-section (*1a*), clauses (*a*), (*b*) and (*c*), [*now* section 8, sub-section (*8*), clauses (*a*), (*b*) and (*c*)], and to no other.

'(*d*) No fee shall be payable to a Commissioner who is in receipt of a salary from the Government.'

"I do not intend to address the Council at any length after the very able speech which the Council has just heard from the Hon'ble Babu Surendranath Banerjee, but I should like to point out that some change has been made in the Bill since its introduction. Before we were told, in regard to the members of the European community, that they have refused to join the Corporation because of the loss of time in excessive talking, and the preponderance of the Hindu vote. Those two objectionable features have now almost entirely been removed. There should be little or no talking for the purpose of speaking in a Committee of twelve members, and there has also been made a reduction in the number of members in the Corporation, which will tell almost entirely on the Hindu vote, under the direction of the Supreme Government; and therefore all the reasons, which we are told have hitherto tended to keep away the European mercantile element from taking part in the proceedings of the Corporation, have been removed. If that is so, why introduce the question of fees? If the European element would have taken part in the proceedings if the objectionable features had not existed, they will be able to do so, now that the way has been cleared for them, without any fees. In justification, we are told that fees are paid for attendance at meetings of the Port Trust. But it does not follow that if they were not paid the mercantile community would not serve on that body. But I submit that there is considerable difference in the circumstances of the two bodies. In the Corporation it will be an entirely new departure: there has been no payment of fees hitherto; then why introduce it there now for the first time? I am under the impression that the members of the Port Trust are chosen on a wider basis from among the members of the mercantile community. In the Corporation, we have to choose and elect members of the General Committee from among a certain circumscribed body, and I believe a mistake will be committed in introducing the system of payment of fees in the Corporation. There will, I feel sure, be a strong dislike on the part of those who are elected to be members of the General Committee from

said that the circumstances of Bombay are different from those in Calcutta. He said—and I could hardly believe my ears when I heard it—that Bombay is more a commercial town than Calcutta is. I can hardly imagine what he meant. The foreign trade of Bombay is as nearly as possible the same as that of Calcutta. It is the port of shipment of a large part of the produce of Northern India. Precisely the same may be said of Calcutta. There is not a pin to choose between the two. The only difference is that in Bombay the commercial community have hitherto taken an active part in the work of the Corporation, whereas in Calcutta for one reason or another they have hitherto kept aloof. It is now the object of this Bill to attract the mercantile community to take a part in the work of the municipality, and therefore the reason which the Hon'ble Babu Surendranath Banerjee assigned for making a distinction between Calcutta and Bombay no longer applies. Not only are the members of the Standing Committee paid in Bombay, but the members of the Port Trust are also paid both here and in Bombay. The Corporation sends a representative of their body to the Port Trust, and the payment of fees made there has not deterred Native members of the Corporation of the highest position and character from accepting the office of a member of the Port Commission. We know also that a substantial honorarium is or used to be paid to every non-official Member of the Imperial Legislative Council for his attendance during the session of the Council. If the Hon'ble Member will refer to the Civil Service Regulations he will find that formerly a fee amounting to Rs. 10,000 a year used to be paid to the Additional Members of Council for their services."

The Hon'ble BABU SURENDRANATH BANERJEE:—"That refers to Members who come from outside the Province in which the Council is sitting."

The Hon'ble MR. BAKER said:—"The payment of that fee has not deterred gentlemen (European and Native) from seeking the honour of a seat in the Council. The only objection to the provision before the Council is the expense it will involve. I admit that this is to some extent a drawback, but it is only part of the price we have to pay for improved municipal administration; and, if the improvement is as great and far-reaching as we hope, the money will have been laid out to the best possible advantage.

"The Hon'ble Member said that if we are to have payment of fees let us follow the Bombay system, namely, let us pay no fees to members of Sub-Committees, nor to those who do not attend a meeting from the beginning to the

end of each meeting. I am able to state that the Government is willing to accept the amendment which stands in the name of the Hon'ble Mr. Apcar, namely, that fees should only be paid to members of the General Committee who attend a meeting from beginning to end. So far we are prepared to go; but as to the payment of fees to members of Sub-Committees, it is true that in Bombay they are not paid, but I regard that as an anomaly in the Bombay system. The Sub-Committees are agents and delegates of the General Committee and are employed to do a part of the work which the law assigns to the General Committee; and their claims to receive fees are just as great as that of members of the General Committee itself. Lastly, in reference to the proposal to grant fees only to the European non-official members of the General Committee, I may ask whether the Hon'ble Member can produce any possible precedent for such an anomalous and invidious and inequitable proposal in any civilised part of the world."

The Hon'ble MR. OLDHAM said:—"Both my hon'ble friends who represent the Corporation have referred to the delicacy which some of the elected members of the Corporation may feel with regard to the acceptance of these fees. I can place at their disposal one solution of that difficulty, though doing so involves my troubling the Council with a personal statement. I cherish the ambition, if the Government will permit me, of being returned as an elected member of the Corporation of Calcutta as my distinguished predecessor in office, Mr. Hebert Reynolds, was before me. If I am elected or become a nominated member of the General Committee, I wish to say that I do not intend to accept payment of fees for my attendance at meetings of the General Committee or of Sub-Committees of the General Committee, and it is perfectly open to any one to follow the same course. I only make this profession in order that I may have a free voice and a free hand in speaking and voting on this matter. Nothing has been more striking than the abstract way in which this matter has been discussed—first, as if there were no precedent, and then at last the example of the Bombay Municipality has been cited as if it were the only precedent; and the Hon'ble Babu Surendranath Banerjee asked if the Hon'ble Member in charge of the Bill is following English teachings in regard to this matter. My answer to that is that we are strictly following the teachings of Englishmen, for wherever they have found themselves in this position in any part of the world—in America, in Australia and other places—they have adopted this system of,

fees in return for their services. Throughout America and in every Colony in Australia this system is in force. Calcutta is not an old Indian city like Delhi or Agra. It started as an English colony, as much as any other colony which England possesses. After all our researches we cannot trace a single descendant of the former inhabitants except the representatives of two houses whose ancestors had, in 1689, recently come from Hooghly, and were then obscure people. Here, as in Bombay, we talk of Europeans and natives as if the Indians are the natives of those places, while the true natives are probably people with European blood. When Bombay was taken possession of, the sole inhabitants who were found were seven fishermen. Therefore, how can we speak of Europeans and natives as if there was any native population still represented when the English formed these two settlements? Indians have come into Calcutta just as much colonists as the Europeans, and Englishmen have only followed in their colony of Bombay the example which they or their descendants have followed wherever they have gone."

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH said:—"I do not wish to give a silent vote in this matter. I do not think the payment of fees for attending municipal meetings is a right policy. I am sure that no Muhammadan or Hindu of rank and position would like to take fees for his attendance and for devoting a portion of his time to municipal matters. I therefore do not think it right to give them the idea that they are entitled to remuneration. I hope that the Council will agree with me and omit section 93 (*now* 100)."

The Hon'ble MAULVI DELAWAR HOSAIN AHMED said:—"It does not seem clear to me that the principle of payment of members is a right principle. Members of Parliament are not paid in England, and no real attempt has ever been made to give a pecuniary character to the services rendered by them.

"We have got municipal institutions from England, and we should try to follow England, where the principle has, as I understand, not yet been applied.

"The General Committee will now consist of a smaller number of members, and there will be a more equitable representation of classes. The risk of loss of time from excessive talk will be less, and no class will be in a hopeless minority. I believe, therefore, that no inducement will be necessary, and I think the provisions of this section are of doubtful value."

[*Mr. Mackenzie; Raja Ranajit Sinha, Bahadur, of Nashipur; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. MACKENZIE said—"The payment of fees is well known and recognised both in England and in India; it exists in the Bombay Municipality and also in the Calcutta Port Trust. As the Hon'ble Member in charge has said, if you wish to induce business men to give their time and labour to the work of the Municipality, you must follow the methods to which business men are accustomed. If the suggestion that fees should only be paid to Commissioners who attend from beginning to end of a meeting is intended to bar any one arriving a few minutes late for a meeting receiving his fee, then I am opposed to it, for it is the custom in business meetings to allow a reasonable grace. Any one having arrived at a meeting would naturally remain till the business before the meeting had been disposed of."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR said:—"I also support this amendment, and I shall at the same time move the amendment which stands in my name, namely, that the words 'and every member of a Sub-Committee a fee of sixten rupees' and the words 'or Sub-Committee' in section 93 (*now* 100) be omitted. My amendment is the same as the one which is standing in the name of the Hon'ble Mr. Apcar. I do not see any necessity for the payment of fees to the members of the General Committee and also to members of Sub-Committees of the General Committee as well. Every one knows that jurors who come from a long distance to serve in Courts of Justice to the detriment of their own work are not entitled to any fees. Moreover, the payment of the paltry sum proposed in this Bill to members of the mercantile community will not afford a sufficient incentive to gentlemen of position and standing to leave their business and attend at meetings of the General Committee; therefore, in my opinion, it will be superfluous to pay any fees. As to the payment of fees to members of Sub-Committees of the General Committee, if members of Special Committees are not to be paid any fees, I do not think it is reasonable to pay any fees to the members of the Sub-Committees appointed by the General Committee, which is the second co-ordinate authority in the Municipality."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"My amendments upon section 93 (*now* 100) are practically identical with those already moved by the Hon'ble Mr. Apcar and the Hon'ble Babu Surendranath Banerjee, and it will be convenient to the Council if I deal with them at this stage. I do not wish to

conceal the fact that, when I first came across this provision in the Bill, I simply felt shocked at the suggestion that members of the Corporation were to receive fees for attendance at meetings of the General Committee and of the various Sub-Committees. I am not in the habit, Sir, of using strong language, but the word 'shocked' precisely expresses my feelings. When I first read the section in the Bill, the question which was uppermost in my mind was this—have public feeling and public spirit fallen to such a low ebb in the metropolis of the Indian Empire that people of all classes and creeds cannot be found in sufficient numbers to take a genuine interest in the municipal affairs of this city without the introduction of the mercenary system of payment of fees? I cannot claim to have a personal knowledge of the Calcutta Corporation, but the intimate knowledge I can claim to possess of the working of the body I have the honour to represent justifies the assertion that there is still considerable public spirit in this city, and it will not come as a surprise upon Hon'ble Members when I tell them that week after week, month after month, very arduous and useful work is carried on in the University by members, European and Indian, official and non-official, who would consider it a grievous insult if they were offered any remuneration for their services. I am proud to think that, in the past, at any rate, similar feelings have dominated the Calcutta Corporation. I still decline to believe that the incentive of fees is necessary to induce any member of the educated Hindu community to interest himself in matters municipal; and I was reluctant to believe that a provision of this kind had been introduced in the interests of the members of the European community, until the Hon'ble Member in charge said that it was needed to secure their active co-operation."

The Hon'ble MR. BAKER:—"I said business men."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA continued:—"That only strengthens my position. If the Hon'ble Member intended to include not only European men of business, but also Hindu and Muhammadan men of business, then I affirm that absolutely no case has been made out for the imputation that the public spirit of the latter has to be whetted by the sight of gold. The Hon'ble Member further contends that it is a necessary corollary to the principle which underlies the Bill, namely, if you want business men to take an active interest in matters municipal, you must pay them fees. I am half

[*Dr. Asutosh Mukhopadhyaya.*]

tempted, Sir, to quote the caustic observation of the Emperor of the French, but I will content myself with saying this much, that, even if this argument is conceded, the position is not established. Let us consider the question closely for a moment. Ten out of fifty members of the Corporation are to be, if I am allowed the use of the expression, commercial members, and four out of twelve on the General Committee are to belong to the same class. Now, assume that it is desirable, or even necessary, to secure the services of this minority by the payment of adequate remuneration. What possible excuse is there for the offer of fees to the majority, who have never demanded them, and in respect of whom no one has even ventured to suggest that their services have to be bought? Why offer this gratuitous insult to Hindus, Muhammadans and non-commercial Europeans, whose zeal and public spirit none can question? Why squander our funds in this wasteful fashion—funds, remember, the substantial portion of which has been wrung from the poor? These are unpleasant and inconvenient questions, and I am afraid they must go without an answer.

"There is, Sir, one other matter in connection with this subject to which it is my painful duty to allude. In the Bill as originally framed there was a very sensible and salutary provision that no member would be entitled to a fee unless he attended a meeting from the beginning to the end thereof. The Select Committee have withdrawn this clause, and, I must say, for a very extraordinary reason; they say that the provision in question is not in accord with the rules of ordinary commercial practice. I confess, Sir, I read this statement with mingled feelings of surprise and regret. We are all aware that a similar provision finds a place in the Bombay Act, and no one has suggested that it has not worked well in Bombay, which, to put it mildly, is quite as much a commercial city as Calcutta. But, Sir, apart from all precedents, is the change defensible at all upon principle? Is commercial ethics something different from ordinary ethics? Do commercial men ever pay full wages for half a day's work? If they ever did that, would they not speedily find themselves on the surest road to bankruptcy? Or, Sir, is this novel principle to apply only when commercial men have to receive and not when they have to pay? I am forced to say, though with the deepest regret, that this desire to be paid and to be paid in full, when one is not prepared to do the whole work, appears, in my humble judgment, to be not very elevating."

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I have had the honour of being a Member of this Council for the last six years, and I have never witnessed a more striking demonstration of feeling on the part of the Hindu and Muhammadan Members of the Council than when I listened to-day to two distinguished members of the Muhammadan community, one of whom is in the service of the Government and the other uniformly votes with the Government, urging that they would be no parties to any measure which proposed payment of fees to Municipal Commissioners. The Hon'ble Sahibzada Mahomed Bakhtyar Shah has been among the strongest supporters of this Bill, and I have never yet found him say 'No' to any provision contained in this Bill either here or in Select Committee. But he feels this to be a reproach—I was going to say that he looks upon with horror—that the representatives of his community should be called upon to receive fees for work to be performed for the benefit of the public, and he has been compelled to say 'No' to this proposal in the Bill. Thus we have here representatives of the Hindu and Muhammadan communities all uniting in a common protest against this part of the Bill, against which therefore it must be assumed that there is arrayed a strong body of public feeling. And I venture to submit that it is the duty of the Council to take note of this feeling. When we have representatives of both these communities urging that they do not want these fees, that they would have none of these fees, that it is the duty of the representatives of the people to do the work of the Municipality without the payment of fees, I submit that the Council ought not to enact into law these provisions of the Bill. My hon'ble friend in charge of the Bill has referred to the invidious distinction which the law would create if fees were only to be paid to some class of members and not to others. No doubt that would be an invidious distinction. I am free to make that admission. But there are already distinctions in the Bill—distinctions between the members of the General Committee and members of Sub-Committees appointed by the General Committee on the one hand, and members of Special Committees appointed by the Corporation on the other."

The Hon'ble MR. BAKER said:—"There are no differences of race."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am sorry the Hon'ble Member has raised the question of race. He has told the Council more than once that the intention of the Bill is to cut down the Hindu majority. Is not that a racial consideration of a very glaring character? If you talk of distinctions

and distinctions based on racial considerations, I say that such distinctions bristle in this Bill from the beginning to the end. The whole Bill is based on these considerations, and therefore that is not an argument which ought to stand in the way of the acceptance of my amendment. My hon'ble friend says that in the Bombay system there is an anomaly. He has not, therefore, adopted the law as it prevails in Bombay. I think the people of Bombay know their own business best, and we should be wise in following them. I do not see why any fee should be paid to members of Sub-Committees appointed by the General Committee, and I think no justification has been made out for making such payments. I earnestly beg Your Honour to take note of the unanimity of feeling which exists among the representatives of the Hindu and Muhammadan communities in this Council. We object to the payment of fees altogether. We do not wish such a principle to be incorporated in the law. At any rate, we do not wish that the members of the Hindu and Muhammadan communities should have the opportunity of accepting fees, and we hope that such an opportunity will not be afforded to them. Pay fees to those who need them; don't pay fees to members of the Hindu and Muhammadan representatives on the General Committee. As to the argument based on invidious distinctions, we need not trouble ourselves about it. Distinction there are in abundance and superabundance in this Bill, and one more distinction will only be in conformity with the entire tenor of the Bill. I earnestly hope the Council will take these points into their serious consideration and accept my amendment."

The Hon'ble MR. APCAR, in reply, said:—"I don't think any more extraordinary spectacle has been seen in this Council than the Hon'ble Member in charge of the Bill attempting to force people to take fees for work done in the municipality who do not want to take them. They cry out against it, they say they object to the payment of any fees, but he is determined that they shall take fees, whether they want them or not."

The Hon'ble THE PRESIDENT said:—"That is not the statement of the Bill. The Bill only provides that fees shall be payable: no man is forced to take a fee."

The Hon'ble MR. APCAR said:—There has been no more effective reply given to this provision of the Bill than that which has been made by the

Hon'ble Mr. Oldham; still it is insisted that this provision shall be engrafted into the law. The section says that all shall be entitled to the payment of fees, and the meaning will be eventually that all shall be paid. Under the law there is to be a payment of fees when both Muhammadans and Hindus cry out against it. If it is so, and only the representatives of one class of the community ask to be paid fees, I say the opinion of the majority of those concerned in the matter being of such a kind, this provision should not be enacted in the law; and, if it is to be enacted, let it be made only in favour of the class who ask to be paid. I have not had the advantage of hearing what the Hon'ble Member who represents the Trades Association (Mr. Spink) has to say in the matter. I know that members of the Calcutta Trades Association have served on the Corporation faithfully, and have given their time and attention to the affairs of the Municipality without expecting the payment of fees. I know that in the Port Trust fees are paid for attendance of members; they are offered to them and they are taken, but it does not follow that, if fees were not paid, they would not serve on the Port Trust. Calcutta is no doubt equal to Bombay as a commercial city, but the native element is far more largely represented in Bombay in mercantile matters than it is in Calcutta. Here the native element is not represented in the same way; and, as far as the payment of fees to members of Sub-Committees is concerned, that provision is not in operation in Bombay. The Bombay Municipal Act has been in operation since 1872. There was an amendment in 1888, and yet members of Sub-Committees have not been paid any fees. I think that, with the strong expression of opinion which has been elicited, the payment of fees should be disallowed."

The Hon'ble MR. SPINK said:—"Sir, I have not spoken before, as my mind was open with regard to this subject; but, as the Hon'ble Member who has just sat down has appealed to me for an expression of opinion, I beg leave to say that personally I would be willing to work without the payment of fees, but I know there is a general feeling that fees should be paid. A fee is looked upon rather in the light of reasonable remuneration for time and services given to the affairs of the Corporation than as an attraction to be a Commissioner. I am perfectly certain that there are many members of the European community who would be willing to be members of the General Committee without being attracted merely by the prospect of receiving fees. I think it is reasonable to pay fees; there is no novelty in such a practice, as it is a recognised principle in business

circles throughout the world, though personally, as I have said, I should be willing to work myself without the payment of fees. I regret I cannot support the amendment."

The motion that section 93 (*now* 100) be omitted being then put, the Council divided as follows:—

Ayes 7.	*Noes 11.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble BABU SURENDRANATH BANERJEE'S moved that for section 93 (*now* 100) the following clause be substituted, namely:—

"Every member of the General Committee shall be entitled to receive a fee of thirty rupees for each meeting of the said Committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof:

"Provided that no more than one fee shall be paid to any member for his attendance at such meetings in any week."

He said:—"The provision in the Bombay Act is exactly the same as this amendment. I have no objection to make the fee amount to thirty-two rupees instead of thirty rupees, but I have put the amount as I find it in the Bombay Act. I have also to point out that this is the provision in the original Bill with a slight modification. The Hon'ble Mr. Spink has been good enough to remark that members of the European community do not want the fee to be such as would represent an adequate remuneration for their time and trouble, but they expect some slight remuneration; therefore we need not have more than one fee a week as in Bombay. I think we ought to proceed on the lines of

the Bombay Act, both in this respect and in respect of attendance from the beginning to the end of the meeting. I hope this amendment will be accepted."

The Hon'ble MR. BAKER said:—"I have very little to add to what I have said already. I cannot accept this amendment, because it makes no provision for the payment of fees to members of Sub-Committees of the General Committee. I do not also agree to the proviso. If the cost to the public purse is the objection to the payment of more than one fee in the week, then no fees at all should be paid. The Bill follows the practice of the Port Commissioners, and I am sure it is the practice in all limited liability companies, and I can see no reason why, when two meetings happen to be held in one week, only one fee should be paid."

The Hon'ble THE PRESIDENT said:—"I think the Hon'ble Member in charge of the Bill accepted the Hon'ble Mr. Apcar's amendment in this section, that after the words "is transacted" the words and "which he attends from the beginning to the end thereof" be inserted."

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble BABU SURENDRANATH BANERJEE'S motion that the following proviso, namely:—

"Provided that no fee shall be paid to a Hindu or a Muhammadan or an official member" be added to the clause proposed in the last amendment,

[*Babu Surendranath Banerjee; Mr. Apcar.*]

or, if that clause be not carried, then to section 93 (*now* 100), being put, the Council divided as follows:—

Ayes 6.	*Noes 11.*
The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH did not vote.

So the amendment was lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "twenty" be substituted for the word "thirty-two" in line 2 of section 93 (*now* 100), and that the word "ten" be substituted for the word "sixteen" in line 4 of the same section.

He said:—"I understand that a fee of twenty rupees is paid by the Port Trust for attendance at each meeting. I moved this amendment in the Select Committee, and I think I nearly carried it. There was a strong feeling in favour of the reduction of the amount of the fee following the precedent followed by the Port Trust."

The motion was put and agreed to.

The Hon'ble Mr. APCAR's motion that in section 93 (*now* 100) the words "and every member of a Sub-Committee a fee of sixteen rupees" and the words "or Sub-Committee" be omitted, was then put and lost.

The Hon'ble MR. APCAR's motion that in section 93 (*now* 100), after the words "is transacted" the words "and which he attends from the beginning to the end thereof" be inserted, was then put and agreed to.

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Babu Boikanta Nath Sen.*]

The Hon'ble MR. APCAR'S motion that for proviso (*a*) to section 93 (*now* 100) be substituted the words "no more than one fee shall be paid to any member for his attendance at all such meetings in any one week" was then put and lost.

The Hon'ble MR. APCAR'S motion that in section 93 (*now* 100), after clause (*b*), the following be added—

"(*c*) the fee shall be payable to a Commissioner appointed under section 7, sub-section (1*a*) [*now* section 8, sub-section (2)], clauses (*a*), (*b*) or (*c*), and to no other;

(*d*) no fee shall be payable to any Commissioner who is in receipt of a salary from the Government,"

was then put and lost.

The Hon'ble MR. APCAR'S amendment that in section 93 (*now* 100), after the words "is transacted" the words "and which he attends from the beginning to the end thereof" be inserted, having been adopted, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew a similar motion standing in his name.

The Hon'ble DR. ASUTOSH MUKHOPADHAYAYA'S motion that to section 93 (*now* 100) the following be added as proviso (*c*), namely:—

"not more than four fees shall be paid to any member for his attendance at all meetings in any one month;"

was put and lost.

The Hon'ble MR. APCAR'S motion that in section 93 (*now* 100) the words "and every member of a Sub-Committee a fee of sixteen rupees" and the words "or Sub-Committee" be omitted having been lost, the Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the similar motion standing in his name.

The Hon'ble BABU BOIKANTA NATH SEN, by leave of the Council, withdrew his motion that the following be added to section 93 (*now* 100):—

"(*c*) not more than thirty fees shall be paid to any member for his attendance at all meetings in any one year."

The Council was then adjourned to Monday, the 18th September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal, Legislative Dept.

Reg. No. 781G—900—10-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Monday, the 18th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA RANJIT SINHA, BAHADUR, OF NASHIPUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

CALCUTTA MUNICIPAL BILL.

The Hon'ble Mr. BAKER said:—"I have been in communication with the Hon'ble Dr. Asutosh Mukhopadhyaya, and we have come to an agreement upon his amendments relating to sections 88 and 89A (*now* 95 and 96*)."

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* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Dr. Asutosh Mukhopadhyaya.*]

SECTION 95.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA withdrew the following motions of which he had given notice, namely:—

(*1*) that in section 88, sub-section (*3b*) [*now* section 95, sub-section (*6*)], for lines 3 to 8, the following be substituted, namely:—

"(*i*) Commissioners elected under section 7 (*now* 8), sub-section (*1*), or appointed under section 52B (*now* 59), sub-section (*1*), and

"(*ii*) Commissioners appointed under section 7, sub-section (*1a*) [*now* section 8, sub-section (*2*)]."

(*2*) that at the end of section 88, sub-section 3(*b*) [*now* section 95, sub-section (*6*)], be added "but from no Sub-Committee shall the representatives of either of the two classes of Commissioners be entirely excluded";

and substituted for them the following motion:—

SECTION 96.

That the following amendments be made in section 89A (*now* 96), namely:—

(*1*) omit "8(*b*)" in line 1 of sub-section (*3*);

(*2*) insert the following sub-section after sub-section (*3*):—

"(*3a*) [*now* (*4*)] The Local Government may make rules declaring what proportion of—

(*i*) Ward Commissioners, and

(*ii*) Commissioners appointed under section 7, sub-section (1*a*) [*now* section 7, sub-section (*2*)], respectively,

shall be nominated to be members of every or any special Committee:

Provided that every special Committee shall be so constituted as to contain not less than one representative of each of the two classes of Commissioners referred to in this sub-section."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I shall briefly explain to the members of this Council what this amendment in substance is. My amendment originally was with reference to section 88, sub-section (*3b*) [*now* section 95, sub-section (*6*)], and my contention was that the division there into three classes was not quite logical. After discussing the matter with the Hon'ble Member in charge of the Bill, we came to the conclusion that it was not perhaps strictly logical, but that a better arrangement could not be devised. We also found that that arrangement was by implication included in section 89A, sub-section (3) [*now* section 95, sub-section (*5*)], under which

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Apcar.*]

sub-section 3 (*b*) of section 88 [*now* section 95, sub-section (*6*)], applies to every Special Committee. Now these Special Committees are to be appointed by the Corporation, and the three classes referred to as the constituent elements of the General Committee are by implication adopted as the constituent elements of the Corporation. But it so happens that the constituent elements of the General Committee are not identical with the constituent elements of the Corporation. But the Government of India in paragraph 20 of their despatch say that these Committees must be truly representative of the elements of which the General Committee and the Corporation are, respectively, composed. Therefore it becomes necessary not to incorporate by implication section 88, sub-section (3*b*) [*now* section 95, sub-section (*6*)], but to include a distinct provision in section 89A, sub-section (3) [*now* section 95, sub-section (*5*)]. That distinct provision is practically my amendment as I have now moved it. The Hon'ble Member in charge of the Bill has pointed out to me that the classification I proposed would hold good in the case of the Corporation, but not in the case of the General Committee, and that therefore it was desirable to leave section 88 (*now* 95) alone, and to insert a new provision in section 89A (*now* 96). The terms of the amendment are practically identical with the amendments numbered 44 and 45 on the List of Business."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has explained it quite clearly and quite correctly. In the General Committee there are three groups of constituents and in the Corporation there are only two. That is the reason why it is necessary to have a distinction between the rules determining the composition of the Sub-Committees which have to correspond to the composition of the General Committee, and the composition of the Special Committees which are to correspond with the Corporation. The amendment moved by the Hon'ble Member gives effect to that, and I think it may be accepted."

The Hon'ble Mr. APCAR said:—"Sir, as I understand it, this relates to sub-section 3 (*b*) of section 88 [*now* section 95, sub-section (*6*)], a sub-section which was carried by the casting vote of His Honour the President, and, as I understand my hon'ble friend the Member in charge of the Bill, it is a sub-section which will not be put into operation. Under these circumstances I have nothing to say."

The motion was then put and agreed to.

[*Babu Surendranath Banerjee; Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen.*]

SECTION 101.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "unless in any case they consider that inconvenience or unreasonable delay would result," in sub-section (*2*) of section 95 (*now* 101) be omitted, and that in their place the following words be substituted:—

"without unnecessary delay."

The Hon'ble MR. APCAR moved that in section 95 (*now* 101), sub-section (*2*), for the words "unless in any case they consider that inconvenience or unreasonable delay would result" the words "without unreasonable delay" be substituted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 95 (*now* 101), sub-section (*2*), all the words after "requisitions" be omitted and the words "without unreasonable delay" be added.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 95 (*now* 101), sub-section (*2*), the words "unless in any case they consider that inconvenience or unreasonable delay would result" be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Sir, yesterday we adopted a section in the Bill making it a statutory obligation on the part of the Chairman to send to the Local Government extracts from the proceedings and minutes of the Corporation, the General Committee and the Sub-Committees. That is a statutory obligation, and surely, Sir, when a requisition is made by the Corporation to the General Committee to submit to the Corporation extracts from its proceedings, such a requisition should be complied with, and it should not be open to the General Committee to raise objections. Sir, I may just point out that this amendment stands on a very different footing from the amendment which I moved the other day and upon which I elicited an adverse vote from this Council. That was an amendment which sought to appoint Committees of the Corporation for the purpose of instituting enquiries and submitting reports with regard to all matters pertaining to the general administration of the Municipality. This amendment stands upon a totally different footing. Its object is that, when a requisition of the kind referred to by me is addressed by the Corporation to

the General Committee and Sub-Committees of the General Committee, it should be complied with without any kind of delay and without excuses being raised. I may point out that my amendment follows section 65 of the Bombay Act, which says—

'The Corporation may at any time call for any extract from any proceedings of the Standing Committee or of any Committee or Sub-Committee constituted under this Act and for any return, &c., and every such requisition shall be complied with without unreasonable delay.'

"I hope, Sir, having regard to the facts I have just submitted, the Council will see its way to accept this amendment."

The Hon'ble MR. BAKER said:—"I strongly oppose this amendment, Sir, and I shall oppose every amendment which seeks to place either the General Committee or the Chairman in a position of general subordination to the Corporation. In the original Bill the power to call for extracts from the proceedings of the General Committee was confined to those matters which are reserved by the Act for decision by the Corporation, and it was also provided that the General Committee should comply with such requisitions without unreasonable delay. In the Select Committee this was changed at the instance, if I remember right, of the Hon'ble Members who represent the Corporation. They said that the power to call for extracts from the proceedings of the General Committee should be made general, and should apply to all the proceedings of the General Committee on all subjects, whether they were reserved by law for the decision of the Corporation or not. As a consequence of that decision we gave to the General Committee the discretion to refuse to forward extracts in cases in which they thought that inconvenience or unreasonable delay would be occasioned thereby. The Hon'ble Member now both wants the power to call for extracts relating to all matters whatsoever, and also to withdraw from the General Committee the discretion which we allowed to them in consequence of that alteration. This amendment assumes that the General Committee is subordinate to the Corporation. Now, Sir, that is not the case. The General Committee is only subordinate to the Corporation in matters which are reserved by law for decision by the Corporation. I admit that the General Committee would ordinarily do well to comply with these requisitions. They ought, as a rule, to furnish the Corporation with information upon all matters regarding which they may desire to have information. But, as the General Committee is within its own sphere independent of

the Corporation, it is inconsistent with that position that the Corporation should have the power to compel them to furnish any extracts from any of their proceedings whatsoever without limitation. I object strongly to take away the discretion of the General Committee by imposing upon them a statutory obligation to compel them to comply with these requisitions. The Hon'ble Member said that this is the rule in Bombay. That is not an argument which impresses me in the least. We are not introducing here the whole of the Bombay system. We have made many alterations and additions, and we are only introducing those provisions from the Bombay Act which we believe are likely to be beneficial in Calcutta. I would remind the Council that the Hon'ble Member only quotes the Bombay Act when it happens to suit his case. Last week we were discussing the financial powers of the General Committee in respect of contracts. In this Bill we have provided that the General Committee should only have power to sanction contracts up to Rs. 10,000, and that anything above that sum shall require the sanction of the Corporation, and that the Corporation alone shall have the power to accept tenders in excess of that figure. In Bombay what is the corresponding provision of the law? In Bombay, Sir, nothing goes to the Corporation at all. The General Committee sanction everything in excess of Rs. 5,000. No matter how high the amount of the expenditure may be, the power to sanction, the power to accept tenders, rests exclusively with the General Committee. I need hardly say that, when we were dealing with those sections, the Hon'ble Member made no reference to the Bombay Act."

The Hon'ble MR. APCAR said:—"I have an amendment standing in my name which is identical with my hon'ble friend's. I think it will be convenient if I take that amendment now. My hon'ble friend's amendment is to substitute the words 'without unnecessary delay'. My amendment is to substitute the words 'without unreasonable delay,' so that the amendments are practically the same, only I am following the terms of the Bombay Act. I have been much entertained by the Hon'ble Member in charge of the Bill, when he had the boldness to say that my hon'ble friend to my left quotes the Bombay Act when it suits his purpose. Well, if that Act were given in its entirety for us here, in Calcutta, it would be accepted by my hon'ble friend and myself. But I do not think my hon'ble friend is singular in quoting the Bombay Act when it serves his purpose, because I have heard that Act quoted by my hon'ble friend in charge of the Bill when it suits his purpose, and set it aside when it suits his

purpose; and, so far as those who are opposing this Bill are concerned, when we have sought any divergence from the Bombay Act, it has been based on the experience that we have gained in the working of the Calcutta Municipality, and it must not be lost sight of that we are changing the law from one very widely different, with very much wider powers vested in the Corporation than have ever existed in Bombay, so that it is not unnatural that we, having had experience of the working of the present Act, seek, where we find that it is advantageous, to fall back upon it. In connection with this amendment I beg the Council to remember that although there is no statutory obligation on the Chairman to supply copies of the proceedings of the General Committee to the members of the Corporation, now they have a right to these copies. They have a right to copies of these proceedings because every matter which comes up before them is one which is under their control, and it is required that they should have full information with regard to such matters, so that the position now is very widely different from what is now desired by the Hon'ble Member in charge. The fall is so great, that I think it might be broken by, at all events, allowing the Corporation to see what is being done on any question upon which they may desire to have information. Here, too, all that is wanted is that information should be given. We have the General Committee who are going to work with closed doors, and I do not think it is advisable by any means, and the contrast is so marked that I am surprised it has been put so strongly that information should not be permitted to come out in the ordinary and regular way. My hon'ble friend, the Member in charge of the Bill, says he will not allow any suggestion that the General Committee are to be put in subordination to the Corporation."

The Hon'ble MR. BAKER said:—"In general subordination to the Corporation was what I said."

The Hon'ble Mr. APCAR said:—"In general subordination to the Corporation. But, Sir, this is not in any way placing them in subordination, either general or otherwise. The Corporation cannot direct the General Committee to do anything different from what they have done. What we seek is that they should supply the Corporation with information with regard to matters which may have excited great general interest, and I can see no reason why such a power should be regarded with any kind of jealousy. The General Committee would be doing, as I am sure they will, everything according to that

which is right in their own eyes. Why should they be afraid of publicity? But, so far as this particular section is concerned, the main objection is based upon the ground of inconvenience. Well, Sir, why will it be inconvenient to them to allow any matter in which they have taken a certain line to be made public? It cannot be inconvenient in the ordinary sense. There can be no difficulty in supplying these extracts, because all that we seek is that they may be available for the use and for the information of the Corporation who represent the public. So that inconvenience in the sense that it would be difficult to supply these extracts does not enter into the question at all. They must supply all the information to Government; then why should they not supply copies of the extracts from their proceedings, which they are compelled to supply to Government, also to the Corporation? It is under these circumstance that I hope this amendment will be accepted."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The position taken up by the Hon'ble Member in charge of the Bill, I am sorry to confess, is not very intelligible to me. I have taken down the words which he used. He said that this amendment is based upon the assumption that the General Committee is subordinate to the Corporation, and that he would strongly object to anything which would place the General Committee in a position of general subordination to the Corporation. I regret to say that I cannot make out that any such subordination necessarily follows, if my amendment is accepted. Let us look, for instance, at section 91A (*now* 98), which deals with the inspection of the minutes and reports of proceedings of the Corporation. It says:—

'The minutes referred to in section 90 (*now* 97), and the full reports (if any) of the proceedings of meetings of the Corporation, shall, at all reasonable times, be kept open at the municipal office to the inspection of any Commissioner without charge, and to any other person on payment of a fee of eight annas;'

so that it seems that any stranger, any member of the public, may get copies of the proceedings of the Corporation upon the payment of a nominal fee. Can it be seriously argued, because this is allowable, that therefore the Corporation is in a position of general subordination to the public? Take, again, section 92 (*now* 99). Section 92 (*now* 99) makes it compulsory on the Chairman to forward to the Local Government a copy of the minutes of the proceedings at each meeting of the Corporation, the General Committee and every Sub-Committee and Special Committee within ten days from the date on

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

which such meeting took place. Is it contended that the General Committee is hereby placed in a position of general subordination to the Local Government, and that the Local Government may, whenever it so chooses, nullify the proceedings of the General Committee? Then, Sir, I submit that the position taken up by the Hon'ble Member in charge of the Bill is inconsistent. If his contention is that the General Committee will be placed in a position of general subordination, in case it is allowable for the Corporation to call for copies of their proceedings, then the better course to follow would be to omit section 95 (*now* 101) altogether. In the first place, you say that the Corporation may at any time require the General Committee to furnish them with any extracts from any of the proceedings of any Committee or Sub-Committee, and also with any returns, statements, accounts or reports concerning or connected with any matter dealt with by the General Committee or by any Sub-Committee; and in the same breath, you add, most inconsistently, that the General Committee shall comply with all such requisitions, unless in any case they consider that inconvenience or unreasonable delay would result. I confess I do not see the force of the words 'inconvenience and unreasonable delay'. Inconvenience to whom? Certainly not inconvenience to the Corporation, because the Corporation would be the best judge in that matter. Inconvenience to the General Committee? I cannot conceive of any case in which the mere fact of furnishing copies of the proceedings to the Corporation will place the General Committee in an inconvenient situation, and I shall be very much obliged to the Hon'ble Member in charge of the Bill if he would give a concrete instance."

The Hon'ble MR. BAKER said:—"I mean of course inconvenience to the public."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA continued:—"I am surprised at the answer. I cannot persuade myself to believe that any inconvenience to the public can possibly result from such a procedure. I cannot, by any stretch of the imagination, think of such a concrete case. But I can very well imagine that publicity would be somewhat inconvenient to the General Committee if their actions are of a character which will not bear the light of day. As to unreasonable delay in getting copies of the proceedings, surely the Corporation would not complain of that. They will welcome them on the principle—better late than never. I venture to think, therefore, that the whole

[*Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen; Mr. Oldham.*]

thing is absolutely indefensible, unless, indeed, the Hon'ble Member in charge of the Bill is prepared to take up the position that a veil of secrecy should be jealously drawn over the possible misdeeds of the executive.."

The Hon'ble BABU JATRA MOHAN SEN said:—"I have a similar amendment to propose to section 95 (*now* 101), *viz.*, that in sub-section (*2*), the words 'unless in any case they consider that inconvenience or unreasonable delay would result' be omitted. The Hon'ble Member in charge of the Bill has referred us to what passed during the meetings of the Select Committee. We are not concerned with what passed there; but all that we need say is whether this provision is or is not a salutary provision, whether power should be given to withold any information which is required by the Corporation, and whether it will not create friction between two authorities which is the anxious desire of Government to avoid. The General Committee will have the power of keeping the Corporation in ignorance of their proceedings, which certainly ought not to be allowed. In order to see that the authorities work harmoniously, it is desirable that a provision of this kind should be made, giving every facility to the Corporation to receive any information they may desire to obtain in matters of this kind. I may add that a provision of this kind would be very satisfactory, and I think the Corporation should have an opportunity of discussing what took place in the General Committee. I have not proposed to add the words 'unreasonable delay,' lest it may be inferred that the General Committee may take offence; that is why I have not added those words. I have merely asked them to submit information, taking it for granted that that information would be forthcoming within a reasonable time."

The Hon'ble Mr. OLDHAM said:—"Sir, notwithstanding what Hon'ble Members have said on the subject, the general belief both in business and in official circles is that the visible sign and badge of subordination is that of its being compulsory on one authority to report to another authority, whether the superior authority has power to act on that report or otherwise. Considering, therefore, that our aim is to establish three co-ordinate authorities, if one of these authorities were always under compulsion to report to one of the others (and notwithstanding the provision which has been made that there should be, as far as possible, a moral obligation to report), it is absolutely necessary to retain in the law the definition which marks the independence of the General Committee and the fact that it is a co-ordinate authority. The Hon'ble Member

[*Mr. Oldham; Mr. Mackenzie; Babu Surendranath Banerjee.*]

for the University quoted, as an instance of a similar position, the position of the General Committee to Government. He said:—'I think surely the General Committee is not subordinate to Government.' My idea of the constitution under the Bill and the control under the sections which we passed the other day is quite contrary to that. It may not appear to be subordinate to Government, but the fact is that the General Committee will be thoroughly subordinate to Government in effect, and I think that has been most effectively secured. Then, Sir, the Hon'ble Member asked if we could give a concrete instance of the inconvenience which would result from this compulsory power of reporting being exercised. I think there are two recent instances. I take first the instance of the Town Hall. I think, if, while the enquiries into that very delicate matter had been going on, any superior authority had insisted upon a report being furnished to them for their information, there would have been the greatest possible amount of inconvenience to the public and to the General Committee, and, if the Corporation had insisted upon reading the lengthy papers of that enquiry, the effect would have been that of protracting and impeding the enquiry. Another instance which comes to my mind is the question of the settlement of the Salt Lakes country. I think, Sir, that, if a report had to be submitted to Government while that enquiry is in the state that it is now in, there would be considerable trouble and inconvenience to all concerned."

The Hon'ble MR. MACKENZIE said:—"I desire to confirm what the Hon'ble Mr. Oldham has said of the custom in business circles. It is unknown for shareholders to have the power of calling for the proceedings of Boards of Directors. It would be highly inconvenient that such should be the case. The Directors submit their report from time to time, and with that the shareholders are satisfied. I have no doubt that the General Committee will submit these proceedings when desirable, but I think in practice it should not be made a statutory obligation for them to do so."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I must be permitted to express the regret that I feel at the very decided attitude which the Hon'ble Member in charge of the Bill has taken up with regard to this amendment, and indeed every amendment which may be said to hang upon it. The position so unfortunately taken up by the Hon'ble Member shuts out that spirit of compromise which, I submit, Sir, ought to be the dominating spirit of all our debates.

[*Babu Surendranath Banerjee.*]

My hon'ble friend was very emphatic, and said in his own very emphatic way—I took down his words—'I shall oppose every amendment which places the General Committee and the Chairman in a position of general subordination to the Corporation.' Sir, I venture to say that in very many matters both the Chairman and the General Committee are subordinate to the Corporation. For instance, in respect of all matters connected with financial considerations, the Chairman and the General Committee are subordinate to the Corporation. Sir, I am perfectly well aware that in other matters the General Committee and the Chairman are independent of the Corporation, and this independence is maintained, not only in the municipal system as provided by this Bill, but is also to be found in the Bombay system. And, Sir, we have precisely the same section in the Bombay Act which I ask you to incorporate in the Bill. It does not, and cannot, interfere with the independence of the General Committee in any way. We have in Bombay the system of co-ordinate authorities as we have here. In Bombay the General Committee is independent of the Corporation as the General Committee will be independent of the Corporation under this law. Yet in Bombay they have this section,—the section which I want the Council to adopt,—and it does not interfere in any way with the independence of the General Committee. Sir, my friend has referred to my quoting the Bombay Act at my convenience, and not quoting it when it does not suit me. I think, Sir, we have both been following the same procedure. He, too, has been quoting the Bombay Act when it suits his convenience, and he has been discarding it when it does not suit his convenience. My friend has referred to the sections relating to contracts. I freely admit that those sections are in advance of the Bombay Act. But I am willing, Sir, to give up these sections and every other section in this Bill which may be in advance of the Bombay Act, if my hon'ble friend will adopt the Bombay Act in its entirety. I say this in the full consciousness that I am voicing the sentiments of the community to which I have the honour to belong. We are fully prepared to accept the Bombay Act with all its advantages and disadvantages. Is my hon'ble friend willing to give us the Bombay Act? He shakes his head: he is not prepared to accept my offer. It is Sir, therefore useless to make a complaint against us that we quote the Bombay Act when it suits our purpose. He does precisely the same thing. I have been following his example—his great example—in this matter, and I am sure he will not find fault with me for so doing. I should very much regret it if the effect

[*Babu Surendranath Banerjee; Mr. Oldham; Mr. Apcar.*]

of my amendment would be to place the General Committee in a position of general subordination to the Corporation. You have already put it in a position of general subordination, because in the first part of section 95 (*1*) [now 101 (*1*)] you say 'the Corporation may at any time require the General Committee to furnish them with any extract from any proceedings of such Committee,' &c. It is only a superior body which can address an inferior body in that way with respect to any information which the latter may have at its disposal. Therefore, you have already placed the General Committee by this section in a position of subordination. I only want that in placing the General Committee in this position there should not occur those difficulties, those elements of friction, which might arise if any discretion were left to the General Committee. My hon'ble friend (Mr. Oldham) has referred to the case of the Town Hall, and to the case of the Salt Water Lakes which at the present moment is being investigated by a Committee. He says it would be highly inconvenient if, while that Committee was making its enquiries, the Corporation were to ask for any papers. I quite agree with that; but, Sir, I think we may trust to the good sense of the Corporation in this matter. I am confident that in the records of the Corporation you will not find one single instance where the Corporation has exercised its powers of supervision in such a way."

The Hon'ble MR. OLDHAM said:—"I was replying to the Hon'ble Member for the University on that point."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Yes, I understand that, but what I say is that, as far as matters of this kind are concerned, you can trust to the good sense of the Corporation. As I said the other day and now repeat it, when a large number of persons meet together for the transaction of public business, there is a solemn sense of public duty pervading the assembly. That sense of public duty will prevent the Corporation from abusing the power we propose to bestow upon it. I am perfectly certain that, if this power be given to the Corporation with the safeguards with which it is proposed to fence it round, it will be rightly used."

The Hon'ble MR. APCAR, in reply, said:—"Sir, with regard to the concrete instances which have been suggested by my hon'ble friend Mr. Oldham, so far

[*Mr. Apcar.*]

as I follow his illustrations, he contends that there would be inconvenience with regard to the point of time when the demand may be made by the Corporation, that is to say, when the General Committee might be required to submit any information. But, Sir, it is not intended that in the middle of an enquiry there should be information with regard to it supplied, or that these extracts of proceedings would then be called for. All that is required is that, when certain proceedings have terminated, information or extracts from proceedings should be furnished. The only question that would arise would be on the ground of delay, and the question would be whether it would be unreasonable delay, and it would not be unreasonable delay if the General Committee desired that there should be delay in submitting the proceedings until after the Sub-Committee, or whatever body of persons may be making this enquiry, had brought the enquiry to a termination. So that, in regard to the instances given, I am not very much impressed by them, for the reason that it is not contended that the proceedings or the extracts shall ever be submitted while enquiries are in progress, or while negotiations are pending. There would be no inconvenience when the final result had been arrived at, but it only could arise when the Committee may be in the middle of their enquiry. Well, as I have said, the question depends on delay, and it would not be unreasonable delay if information of this sort was not given till the enquiry was closed. We have had the Bombay Act in operation for a long time. If there were any serious risk in removing the disqualification we now seek to take away by our amendments, surely there might be some illustrations given us, so as to bring it home to us, that our demand is not one which should be complied with. I have heard no suggestion of this kind, but, on the contrary, I find that it would be for the public benefit that all information desired should be available. There is no reason that I have heard that has induced me in any way to think that the proposals we urge are such as should not be granted.

"With regard to Companies, why that is a matter between the shareholders themselves. They are hardly identical with Corporations, and I do not know that the analogy is applicable to the present question. But, if any shareholder desires information, in the result it is given to him; and I am not asking for information at any moment of time, but only after all negotiations and enquiries have terminated. The information is asked for on behalf of the public, and I hope our amendments on this occasion will not be refused."

[*Babu Surendranath Banerjee.*]

The Hon'ble BABU SURENDRANATH BANERJEE'S motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The motions by the Hon'ble MR. APCAR, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA and the Hon'ble BABU JATRA MOHAN SEN being then severally put, the Council divided in the same way.

So the amendments were lost.

NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following section be inserted after section 95 (*now* 101):—

"95A. (*1*) The Corporation may at any time require the Chairman—

(*a*) to produce any record, correspondence, plan or other document which is in his possession or under his control as Chairman, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

(*b*) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of Calcutta; or

(*c*) to furnish a report by himself, or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report upon any subject concerning or connected with the administration of this Act or the municipal government of Calcutta.

(*2*) Every such requisition shall be complied with by the Chairman without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the Chairman in pursuance of any such requisition:

Provided as follows:—

(*i*) if, on such a requisition as aforesaid being made, the Chairman declares that immediate compliance therewith would be prejudicial to the interests of the Corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the Corporation after he has declared as aforesaid;

(*ii*) if at such meeting, or any meeting subsequent thereto, the Corporation repeat the requisition, and it then still appears to the Chairman inexpedient to comply therewith, he shall make a declaration to that effect, and thereupon it shall be lawful for the Corporation to elect three Commissioners who shall form a Committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the said Committee the Chairman shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition; and the said Committee, having taken cognisance of the information, writings and matters so laid before them, shall determine, by a majority in case of difference, whether or not the whole or any part, and which part, if any, of such matters ought to be disclosed to the Corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the Corporation at their next ordinary meeting, at which meeting the Chairman shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the Committee when called on to do so by the Corporation."

The Hon'ble MR. APCAR moved that the following section be inserted after section 95 (*now* 101):—

"95A. (*1*) The Corporation may at any time require the Commissioner—

(*a*) to produce any record, correspondence, plan or other document which is in his possession or under his control as Commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

[*Mr. Apcar.*]

(*b*) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of Calcutta; or

(*c*) to furnish a report by himself, or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report upon any subject concerning or connected with the administration of this Act or the municipal government of Calcutta.

(*2*) Every such requisition shall be complied with by the Commissioner without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the Commissioner in pursuance of any such requisition:

Provided as follows:—

(*i*) if, on such a requisition as aforesaid being made, the Commissioner declares that immediate compliance therewith would be prejudicial to the interests of the Corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the Corporation after he has declared as aforesaid;

(*ii*) if at such meeting, or any meeting subsequent thereto, the Corporation repeat the requisition and it then still appears to the Commissioner inexpedient to comply therewith, he shall make a declaration to that effect, and thereupon it shall be lawful for the Corporation to elect one Councillor [who with the President of the Corporation and the Chairman of the General Committee (or, if the President of the Corporation is also Chairman of the General Committee, with the said President and one member of their own body elected by the General Committee)] shall form a Committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the said Committee the Commissioner shall be bound to make known and to disclose all writings and matters with his knowledge, under his control, or available to him, and embraced within the requisition; and the said Committee, having taken cognisance of the information, writings and matters so laid before them, shall determine, by a majority in case of difference, whether or not the whole or any part, and which part, if any, of such matters ought to be disclosed to the Corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the Corporation at their next ordinary meeting, at which meeting the Commissioner shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the Committee when called on to do so by the Corporation:

Or

and for the General Committee to elect one of their body and for the two Councillors so elected to select a member of the Corporation, who together

[*Mr. Apcar; Babu Surendranath Banerjee.*]

Provided always that in the event of the two Councillors elected as aforesaid not agreeing in the selection of a third person to act with themselves as aforesaid, then it shall be lawful for the Corporation at their next meeting, whether ordinary or special, and with due notice in respect of such matter, to elect a Councillor who, on such election, together with the two Councillors previously elected, shall form a Committee for the purpose above mentioned"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"This section proposes that the Corporation should have the right of requesting the Chairman to furnish it with any papers which may be in the possession of the Chairman, and it will be obligatory upon him to submit such papers to the Corporation. If the Chairman is of opinion that in the interest of the public such papers should not be laid before the Corporation, then he may decline to do so; and if the Corporation again repeats its request, then a certain procedure is suggested, *viz.*, three Commissioners are to be appointed, they are to confer with the Chairman upon the matter, the Chairman is to disclose the facts of the case to them, and the Corporation will be bound by the decision of the three Commissioners. Sir, I do not see any reason why this amendment should not be accepted. It is perfectly consistent with the other provisions of the Bill. It is not derogatory to the authority of the Chairman; it does not interfere with his every-day work. The Chairman remains an independent municipal authority; the Corporation also remains an independent municipal authority. All that is proposed is that the Corporation should have power to require the Chairman to submit papers which the Corporation may wish him to submit. That is the Bombay section. There the system of co-ordinate authorities exists, and yet a provision like this has not been found in any way to interfere with the smooth working of the municipal system in Bombay. I trust that my hon'ble friend will not in connection with this amendment take up that decisive attitude to which I previously referred with some regret. I appeal to my friend to look at the matter from the standpoint of public interest rather than from the standpoint of official subordination. The question which we have to decide is whether, if a section like this finds a place in the municipal law, it would be placing the Corporation in a better position than the Corporation now is, to discharge the various duties which will be entrusted to it under the Bill. The object of the amendment is not the subordination of the Chairman. The object is to place the Corporation in possession of information which the Corporation may wish to have in order that the Corporation might be in a position to discharge the grave and responsible duties which will be imposed upon it under

[*Babu Surendranath Banerjee; Mr. Apcar.*]

the law. I do not seek to exalt the Corporation. I want to place the Corporation in a position to discharge satisfactorily the important duties entrusted to it. If the Corporation has the information, it will be able to discharge these duties satisfactorily. If it has not the information, it will not be able to do justice to them. My hon'ble friend Mr. Oldham said that reporting is a visible badge of subordination. This is not a question of reporting at all; it is a question of giving information. Sir, I hope my hon'ble friend will see his way to accept this amendment."

The Hon'ble MR. APCAR said:—"My amendment, Sir, is slightly different from my hon'ble friend's. In the middle of proviso No. 2 my hon'ble friend suggests a committee of three in the case of the Chairman declaring that compliance with the requisition would be inconvenient. My hon'ble friend thinks this Committee should be composed of three members of the Corporation. My suggestion is that one of the three should be elected by the General Committee, another of the three by the Corporation, and that these two should select a third person to complete the Committee; and there is a proviso to meet the contingency of the two who have been elected, one by the Corporation and the other by the General Committee, not agreeing as to the third. Then in such a contingency I propose that it shall be lawful for the Corporation at their next meeting—whether ordinary or special—to elect a third person to form the complement of the Committee. I hope that with regard to this section the Hon'ble Member in charge of the Bill will not adopt the uncompromising attitude that he assumed in regard to the last amendment. Under the Bill, as it is framed, no information is available at all with regard to those duties which are set apart for the Chairman to perform. Under section 95 (*now* 101), to which we have just now moved amendments, the Corporation may demand information, and then it is left to the discretion of the General Committee to give such information or not. But with regard to the Chairman's duties, it is a closed book. The public cannot in any way obtain any information with regard to what he may have been doing. Sir, it is not a question, I assure my hon'ble friend, of in any way seeking to override the Chairman, nor does the question arise here with regard to the subordination of the Chairman. It is in the public interest that this amendment is sought to be introduced, and even if in such circumstances a man is placed in subordination, having in view that the whole of this Act is for the public interest and not for the purpose of exalting any individual, that the Chairman ought to yield, and

that all matters with which he may deal should be subject to information being supplied with regard to them. In the present Bill the whole attitude of Government is to keep the Corporation in the dark, if either of the so-called co-ordinate authorities desire to withhold information. I do not seek in any way to place any orders on the Chairman or to place him in subordination, but all I want is that, whatever he may be doing, it should be possible for information to be obtained with regard to it. I do not seek for any power under which any individual could move to gratify a personal whim. It is when the Corporation move as a body, when by a vote the Corporation require certain information, then that information should not be withheld."

The Hon'ble MR. BAKER said:—At first, Sir, I was disposed to think that it might have been possible to grant this power provided that my hon'ble friends had seen their way to limit the exercise of it, if they had agreed to confine themselves to matters reserved by law for the decision of the Corporation, and if they gave the Chairman power to withhold any paper or information in his discretion in the same way as is permitted to the General Committee. I said something to that effect to the Hon'ble Mr. Apcar when he made a reference to me on the subject. Mr. Apcar was unwilling to agree to that modification, and the matter dropped. Since then, the matter has been further considered by Government, and Government are now of opinion that this amendment cannot be accepted in any way, not even in the modified form which I at first thought would have been permissible. The right which my hon'ble friends seek to obtain is perfectly unnecessary. The Hon'ble Mr. Apcar has said that there are no means by which the Corporation or the public can get any information as to the Chairman's acts. He said the Chairman's proceedings were a closed book. Well, Sir, that is entirely incorrect. The Chairman is President of the Corporation. He presides over the General Meetings. Every individual Commissioner has the right of interpellation, and it is open to any one of them or any number of them to ask the Chairman for any information upon any subject connected with the discharge of his duties, or connected with any branch of the municipal administration. The Chairman can answer these questions, he can give all the information that he thinks fit, and I am certain that he will always give the utmost information in his power, which, in his opinion, may be given without detriment to the public interests. I was disposed to think, Sir, that in practice not very much evil would have resulted from granting this power in the limited way in which I first suggested it, because the party or section of the

Commissioners which is likely to indulge in excessive interference will, I hope, not be strong enough to bear down the party of order unless they have a very strong case. But, as a matter of principle, I object to giving the Corporation the power to call for reports and explanations from the Chairman in matters which are outside their province, and which are within the discretion of the Chairman himself. It is true that the amendments do not expressly ask for power to pass orders on these reports or explanations. But what is the object of calling for information unless it is in contemplation to interfere or seek the right to interfere? If the Corporation is in need of information on any legitimate subject for any legitimate purpose, the Chairman will always be ready to furnish it to the utmost of his ability. I would remind the Council that what the hon'ble movers of the amendments really would like is to place both the Chairman and the General Committee in complete subordination to the Commissioners as they are under the existing Act."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Certainly not in connection with this amendment."

The Hon'ble MR. BAKER said:—"That is what the Hon'ble Members would really like. The Council has decided against them on that point, and I regard this amendment as an attempt to make some advance in that direction."

The Hon'ble MR. OLDHAM said:—"I have considerable sympathy with the objects of this amendment, though I must vote against it as it is formulated. My hon'ble friends have referred to the uncompromising attitude of the Hon'ble Member in charge of the Bill. I really think that was a little unjust. I must remind my hon'ble friend, Babu Surendranath Banerjee, that, as the Bill originally came down to us in Select Committee, there was no provision whatever for what section 95 (*now* 101) provides for, and that the Select Committee, headed by my hon'ble friend the Member in charge of the Bill, accepted the suggestion that such a provision should be made, and that was the compromise in this matter."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I freely acknowledge that in the Select Committee my hon'ble friend in charge of the Bill showed much more of the spirit of compromise than I am sorry to say he has exhibited in this Council. Sir, I am free to make the admission that many important points were conceded at the request of my hon'ble friend Babu Norendra Nath Sen and myself. I desire most frankly and freely to make that acknowledgment, subject to the reservation to which I have just referred. My

hon'ble friend has observed that our object is to place the Chairman and the General Committee in a position of subordination to the Corporation. He has rightly interpreted our views, and, I think, Sir, the matter is so important that we ought to take advantage of every opportunity which presents itself to obtain some instalment of that principle which we conceive to be the basal principle on which the Calcutta Corporation ought to rest. That has been the principle upon which the Corporation of Calcutta has always been based. Since the institution of the Corporation in 1863 the authority of the Commissioners has always been paramount; and I have not the slightest hesitation in saying that it is because of this paramountcy of the Corporation that you see such improvement in the working of the Municipality of Calcutta. I think, Sir, you are embarking on an experiment which is full of peril. That being the view we have taken, *viz.*, that it is important the Corporation should be the paramount authority, and that view having been vetoed by this Council, I think it is only our duty that we should obtain a modification of the principle so far as we can. I think, Sir, the Council will sympathise with us in the efforts we make in a lawful and constitutional way to obtain a modification, however slight it may be, of a principle which we consider to be the most essential principle in a body like the Corporation of Calcutta. My friend has observed that it will always be open to the members of the Corporation to obtain information from the Chairman by asking questions. Well, Sir, I am in the habit of asking questions addressed to my hon'ble friend over there, and I desire to make a confession. I hope my hon'ble friends will not be offended if I say that sometimes the replies which I obtain in this Council represent the minimum of information with the maximum of words. I ask for information, but the information is whittled down, amidst a whirlwind of words. At other times I am better treated; but where is the guarantee, Sir, that the Chairman will not give the minimum of information with the maximum of verbiage? What guarantee is there that he will give full and satisfactory answers to the questions asked? There is no guarantee to that effect. Then, Sir, my hon'ble friend observes that the object of calling for information is to interfere. How are the Commissioners to interfere? You give them no opportunity to interfere. They cannot pass any resolution upon the information they call for; such a resolution would be out of order. And the Chairman is there; he will simply say as a point of order: 'I rule you out of order, because you are trespassing upon my constitutional privileges with which you have nothing whatever to do'; and he will bow and sit down, and

there will be an end of the matter. Interference is absolutely out of the question. All that may be done is to exercise a little of that moral pressure which, supported by an enlightened and educated public opinion, ought to be the bulwark of a body like the Corporation of Calcutta. I am sorry my hon'ble friend is not prepared to accept this amendment, which, I understand, he was at one time willing to accept."

The Hon'ble MR. APCAR, in reply, said:—"Reference has been made by the Hon'ble Member to something he was willing to accept when I spoke to him on the subject. With regard to the concession he refers to, I do not see that there is any benefit to be derived from a provision of the kind. If we are entitled to discuss any matter, we are entitled to have such information as can be available for us in such matter, so that the concession my hon'ble friend was willing to make was really no concession at all, if our right of asking for information was limited to only such matters as those which we may have the right to discuss in the Corporation. I confess, however, I did not quite understand even so much in the brief conversation that I had with my hon'ble friend."

The Hon'ble MR. BAKER said:—"It was not a conversation; it was in writing."

The Hon'ble MR. APCAR said:—"Was it? Well, I had forgotten then. I thought it was a conversation. I know letters passed between us which led up to an interview when I spoke to the Hon'ble Member on the subject of this amendment. I went over to see my hon'ble friend on the subject, but I do not remember that anything was formulated in the manner in which my hon'ble friend states; but I accept what he says as correct. I ask to be permitted to say that I am not seeking a personal benefit in this question. I am asking for a concession for the benefit of the public. Whether I personally agreed, or did not agree, at a particular moment, to a proposal of the Hon'ble Member in charge of the Bill ought not to make any difference in the attitude of the Government in such an important question. I wish to speak for myself with regard to the object of this amendment which I propose. I seek publicity. I do not seek to put any one in a position of subordination to another authority at all. But I think that, if there is a matter which has excited interest, the Corporation should be able to act on behalf of the public in order to elicit information. I do not want anything more than that. I do not seek in any way to place the Chairman in subordination to any one. His place is to be defined in the Municipal law, and

I must have regard for the law as it is enacted, and it is not my idea to get round the law in any sort or kind of way. My purpose is this: that there should be information available for the public in any matter in which there is public interest, and in this there is no desire or idea of placing any one in subordination. My hon'ble friend says that the Chairman will always be ready to give information. Well, my own experience has been different. On some points I have found the Chairman has not been ready to give information, and he has resented an endeavour made to seek information. I remember with regard to a certain verandah question, with reference to which there was a standing order obtained after four years' struggle, through the assistance of Dr. Macleod, who had been Health Officer, that there should be no verandahs at all in thoroughfares which were less than a certain width; over footpaths in thoroughfares of a certain greater width there should be nothing more than simple uncovered verandahs. Whenever such questions were brought up for sanction, they were submitted with the remarks of the heads of the departments. In the particular instance to which I refer, the Engineer gave his opinion in a note. It was against the concession then asked for, but he was eventually induced to withdraw that opinion, and to write another of a very colourless character, but still not opposing. The Health Officer was so strongly against it that he refused, under any circumstances, to support the proposal of the Chairman; and when we sought to obtain access to this information, there was very strong resentment shown with regard to it by the Chairman.

"I may mention another question, also, the question of the Watgunge Depôt, in connection with which certain temporary arrangements were made in anticipation of the permanent Suburban Drainage scheme. The Engineer had obtained leave to Europe, and had been given one month's extra leave in order that he might consult with Mr. Baldwin Latham, the eminent Sanitary Engineer, with regard to this particular question. We had been advised by our Engineer so far back as 1890 that the pumping power at Palmer's Bridge Station was insufficient for Calcutta alone. Mr. Baldwin Latham had subsequently reported to the same effect. In the absence of the permanent Engineer, his *locum tenens* proposed a scheme under which the sewage of no less than 160,000 more inhabitants from the suburbs were to be thrown into the Calcutta drains to be lifted by the pumping engines which were thought insufficient for Calcutta alone. Then, when this matter was brought up before the Corporation, some of the Commissioners, who had been taking an interest in the question of the drains in Calcutta, were alarmed by the idea of having so

[*Mr. Apcar.*]

much extra stuff being thrown into the Calcutta drains for the pumping engines to deal with. Information was sought, and it was given to this effect: that the pumping engines were able to dispose of this extra quantity, and in support of this there was, with regard to certain dates, information given as to the work that had been done by the engines. Two European Commissioners,—one an elected and the other a nominated Commissioner,—in the course of their study of the very difficult question of the drainage, went down to the pumping station, and found there the book with the reports that had been made with regard to these particular dates, and they accidentally found that there had been a mistake made in the returns that had been relied upon. That was very important information that was elicited, and had a great influence on the Commissioners when the voting on the subject came up for decision. This information will not be available under the law as framed by the Bill, but will be available if the amendment is accepted.

"Again, this Watgunge Depôt, the scheme of which had been rejected by the permanent Engineer as being one which for many engineering difficulties was inadvisable, was advocated by his *locum tenens* and strongly supported by the Chairman for adoption. Now, the permanent Engineer had been known to be opposed to the scheme, and an elected Commissioner, remembering this, sought for and was able to obtain information which showed that the Engineer had stated that the sewers between Kidderpore Bridge and Russa Road were insufficient to carry away the extra amount it was desired to put into them. When the permanent Engineer returned, he refused altogether to entertain the idea of this Watgunge scheme. It was a most important matter that we should have the information, in order that we might judge whether we should adopt this scheme which was pressed for by the Chairman.

"Under the law as proposed by the Bill, the Chairman may reply to an interpellation or he may not. There is no kind of statutory authority given to the Corporation to enable them to obtain any information. So in matters such as these, it is because of my experience in regard to the actual working of the administration that I ask for such powers as I now seek to obtain for the Corporation. The interest of the public is of paramount importance, and it, surely, is their right to obtain important information affecting their welfare. It is not for the purpose of endeavouring to make the

Chairman subordinate to the Corporation, unless indeed the Chairman must be allowed to do whatever he has once decided upon, whether he is right or wrong, even though he is about to act upon erroneous information and to the serious peril of the public, and any attempt to get bare information about what is being done is to be regarded as placing the Chairman in subordination, and the amendment is to be rejected on such a ground. In Bombay the information is granted, and there is no kind of jealousy with regard to such a subject as this. There is no idea entertained there that it is offensive to require the Chairman to give information about what he is doing. It is in the public interest alone that I seek the acceptance of this amendment. I do not want, by this amendment, in any way to make the Chairman's position different to that which has been deliberately conceived by Government to be his position under this Bill when enacted."

The motions being severally put, the Coucil divided in each case as follows:—

Ayes 5.	*Noes 13.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apcar,	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Raja Bahadur Ranjit Sinha, of Nashipur.
	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

SECTION 102.

The Hon'ble MR. APCAR moved that clause (*b*) of section 95C (*now* 102) be omitted.

[*Dr. Asutosh Mukhopadhyaya; Mr. Apcar.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (*b*) of section 95C (*now* 102) be omitted.

The Hon'ble MR. APCAR said:—"Section 95C (*now* 102) deals with the validation of acts and proceedings, and enacts that—

'No act done or proceeding taken under this Act shall be questioned on the ground merely of—

* * * * * * * *

(*b*) any Commissioner having voted or taken part in any proceeding in contravention of the proviso to section 31 (*now* 39).'

"Now, suppose a Commissioner, although he is forbidden to speak or vote on such a subject, does actually do so; under this clause, it will not affect the validity of the proceeding. I say, have some provision which shall operate to enforce a penalty, with practical effect, on a breach of this particular law. The Commissioner will have acted in a manner forbidden by the law; then place him in exactly the same position as any person who directly by himself, or by his partner or employer, has a share in any contract or employment connected with the Corporation. Otherwise, it seems to me the proviso may become a dead letter."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The first observation which occurs to me with reference to this matter is that the provisions of the proviso to section 31 (*now* 39) which are extremely salutary should not be frittered away in this fashion. I confess it seems to me to be absolutely meaningless to say with solemnity in one section that you shall not do this or that, and in another section to say that, if you do that in contravention of the direct provisions of the law, there shall be no penalty whatsoever. I submit that this is making the provisions of section 31 (*now* 39) absolutely nugatory, and practically inviting people to trifle with the law. Let us examine for a moment the corresponding provisions of similar Acts; and in order that I may not be charged with quoting such authorities only as are in my favour, the first authority I refer to is section 33 of the present law. I am bound to confess that in this matter the present Bill is a faithful copy of the old law. It has changed and destroyed many things, but has spared this from its ravage. But the analogy of all the other Acts will show that in this respect our Act is singular. If you will look for a moment at the Bombay Act, sections 51 and 52, you will find the provisions regarding the validity of acts and proceedings, which I need not read out

at length. They correspond in substance to our section 95C (*now* 102), clause (*a*), but I cannot find in the Bombay Act any provision corresponding to clause (*b*)."

The Hon'ble MR. BAKER said:—"The word 'disqualification' covers it. That appears in the Bombay Act."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA continued:—"The interpretation which the Hon'ble Member seeks to force upon the Bombay Act is absolutely inadmissible, as will be manifest if you read all the provisions together. Then let us look to the English Act from which all these provisions have been only too faithfully reproduced (45 & 46 Vict. Chapter 50, section 22). First of all section 12 specifies the disqualifications for being a councillor. Then section 22, sub-section (*3*), provides that a councillor shall not vote or take part in the discussion of any matter in which he has a pecuniary interest; this is followed by sub-section (*4*), which lays down that no proceeding of the Council shall be questioned on account of any vacancy in their body. But let us not forget that it stops with the word 'vacancy,' and does not go on to add that the proceedings will be valid even if there be an infraction of the provisions of the preceding clause. I venture to affirm, therefore, that both reason and precedent are against the course we are asked to adopt."

The Hon'ble Mr. BAKER said:—"The Hon'ble Member has omitted to refer to section 42 of the English Municipal Corporations Act. It is as follows:—

'42. (1) The acts and proceedings of a person in possession of a corporate office, and acting therein, shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been qualified.

'(2) An election of a person to a corporate office shall not be liable to be questioned by reason of a defect in the title, or want of title, of the person before whom the election was had, if that person was then in actual possession of, or acting in, the office giving the right to preside at the election.

'(3) A burgess roll shall not be liable to be questioned by reason of a defect in the title, or want of title, of the mayor or any revising authority by whom it is revised, if he was then in actual possession and exercise of the office of mayor or revising authority.' "

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"That only refers to the validity of election, and has not the remotest bearing upon the question now at issue."

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Mr. Apcar.*]

The Hon'ble MR. BAKER said:—"The word 'councillor' includes every member of an English Corporation. It includes the mayor, the aldermen and the councillors. The section, as it stands in the Bill, is the law in Calcutta now, and I understand it is also the law in the Punjab. I was also under the impression that it was the law in Bombay, but the Hon'ble Member may be right in his interpretation of the Bombay Act."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I think it is not the law in the Punjab."

The Hon'ble MR. BAKER said:—"I understand so. But, quite apart from that, there is no ground for making the change. I may point out how exceedingly inconvenient it would be to introduce this disqualification. Supposing at a meeting at which some contract was sanctioned some Commissioner had taken part who had no right to take part. Suppose that works were sanctioned and taken up by the contractors and partly done, and then some months afterwards suppose somebody discovered that this gentleman was disqualified to the extent mentioned in this clause (*b*). Would that be a justification for invalidating or calling in question the proceedings of the meeting? It would be impossible. It might run the Corporation in for I do not know how much in the matter of damages."

The Hon'ble MR. APCAR, in reply, said:—"Sir, the same effect would be consequent upon any one taking part in the proceedings who comes under sub-section (*1*) of section 31 (*now* 39), if by some oversight or other a Commissioner were to take part in these discussions or vote with regard to contracts where he has no right to do so. With regard to what my hon'ble friend has said about the inconvenience which would result, I do not think that that is a sufficient reason for allowing this particular clause to remain. It may be that the interested Commissioner has himself given practically the casting vote which decided the matter. It may lead to applications in the Courts by those who are affected by such a vote, on the part of any one being dismissed from employment, or in some question of that kind; and it would lead to the Corporation being bound by a decision once arrived at without having the power of revising what has been done."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"With regard to the law in the Punjab I find there is nothing in the Punjab Act similar to this."

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"Then I withdraw that statement."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA continued:—"With regard to section 42 of the English Act, I repeat that it has nothing to do with this matter. That applies only to the case of persons disqualified from holding an office. If the terms of section 12 and section 42 are compared, it is quite clear that they are to be taken together. I do not see that there is any protection when a member of the council votes in contravention of the clear provisions of section 22, sub-section (*3*).

The motions were then put and lost.

SECTION 112.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "Chairman" be inserted after the words "by the" in line 1 of clause (*a*) of section 104 (*now* 112).

He said:—"This is a very small matter, Sir. It refers to the signing of cheques for payment. The Bombay Act (section 113) requires that these cheques should be signed by the Chairman. Our present law is different. Cheques are signed by the Vice-Chairman and the Secretary. I think, in a matter like this, the responsibility being a financial responsibility, the Chairman ought to be associated with the other signatories. I have no very strong feeling about the matter, but I think, this being a financial question, it would be an additional safeguard if the Chairman's signature were associated with the signatures of the Vice-Chairman and the Secretary."

The Hon'ble MR. BAKER said:—"I cannot think the Hon'ble Member is serious in asking that the Chairman should sign all cheques in addition to the Vice-Chairman and the Secretary. There is no precedent for such a thing; it is not the law now, nor is it necessary. In Bombay it is not the case. There the cheques are signed by the Municipal Commissioner, as there is no Vice-Chairman; but there are not three signatures to each cheque."

The motion was put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for the words "by a member of the General Committee" in lines 5 and 6 of clause (*b*) of section 104 (*now* 112), the following be substituted:—

"by some other person appointed in that behalf by the Chairman with the consent of the General Committee."

[*Babu Surendranath Banerjee; Mr. Baker.*]

He said:—"This is a recommendation of the Corporation. They say there will be considerable difficulty in getting a member of the General Committee to do this work. I think my hon'ble friend must agree that it will lead to great inconvenience in practice."

The Hon'ble MR. BAKER said:—"This is a small matter, and I accept it. I would point out that it is only in the event of the illness or absence of the Vice-Chairman and the Secretary that a member of the General Committee would have to sign."

The motion was put and agreed to.

SECTION 113.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 105 (*now* 113) be omitted.

He said:—"Section 105 (*now* 113) refers to the opening of an account outside the limits of Calcutta. Well, Sir, we have not got such an account now, and have never felt the inconvenience of not having such a section. They have it in Bombay, but that is no reason why we should have it here. The Corporation has now been in existence since 1863, and we have never had an account with any Bank outside the limits of Calcutta, and we do not need one now. I do not see why we should have a section like this which might offer a temptation to somebody to try to open such an account."

The Hon'ble MR. BAKER said:—"I think it is better, Sir, that the Corporation should have this power, and I may mention that the Port Commissioners here have a similar power. Among other accounts, they have an account in England. They use that account to draw upon for payment of stores and other articles which have to be imported for their works from England. I do not know that it is likely to be equally necessary in the case of the Corporation. The Corporation do not use the same amount of stores and machinery and articles of that kind as the Port Trust, but they do use a good deal of machinery and other imported articles, such as pipes, &c., for their waterworks and drainage works, and it is perfectly possible that they might find it useful to have an account in England."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"If ever there was an occasion for opening an account in London it is now, when the Corporation has embarked upon some of the largest contracts they have ever

entered into. They have not yet felt the need for such an account, and are not likely to feel it in the future. I do not know that the matter is one of importance or that I should press it if my hon'ble friend has a strong opinion in regard to it."

The Hon'ble MR. BAKER said:—"I have no strong opinion, but I think it is a useful power to have."

The motion was then put and lost.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 105 (*now* 113), line 3, the words "and subject to the control of the Corporation" be inserted after "General Committee."

He said:—"The statutory provision contained in section 103 (*now* 111) is that the Corporation should have an account only with the Bank of Bengal. If any other account is to be opened with any other Bank outside Calcutta, I think the Corporation should also have a voice in the matter. All that I propose is that the Corporation should have a general power of control in a matter like this which is to open an account with a separate Bank outside Calcutta."

The Hon'ble MR. BAKER said:—"This is a matter of very small importance, Sir. I do not wish to oppose it, and, if this amendment had been moved by one of the Hon'ble Members connected with the Corporation, I should have been ready to accept it. But I am not sure if the Hon'ble Babu Jatra Mohan Sen really understands the matter. If the Hon'ble Members who represent the Corporation support it, I am not prepared to object. But I would add, with regard to the abstract question of opening an account, that the power would be left in the hands of a Board of Directors of a Limited Liability Company. It would not be given over to the shareholders. Therefore, I think the matter should be left to the General Committee; but, if the Hon'ble Members who represent the Corporation support the matter, I am not prepared to oppose."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am certainly in favour of the amendment. I think it is as well that a matter of this sort should be under the control of the Corporation."

[*Babu Jatra Mohan Sen; Mr. Baker; Babu Surendranath Banerjee.*]

The motion being put, the Council divided as follows:—

Ayes 10.	*Noes 9.*
The Hon'ble Mr. Handley.	The Hon'ble Mr Buckley.
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Dr. Asutosh Mukhopadhyaya.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Mackenzie.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Oldham.
The Hon'ble Mr. Spink.	The Hon'ble Mr. Baker.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	The Hon'ble Mr. Bolton.
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.	The Hon'ble Mr. Slack.
The Hon'ble the President.	

So the amendment was carried.

SECTION 114.

The several motions for the omission of section 93 (*now* 100) having been lost on a previous occasion, the Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion standing in his name, that clause (*b*) of section 106 (*now* 114) be omitted.

SECTION 116.

The Hon'ble MR. BAKER moved that in section 108 (*now* 116) the words "sanctioned by a municipal authority" be substituted for the words "sanctioned by the General Committee."

He said:—"This was a clerical error in the Bill. The section as it stands would require the Vice-Chairman or whoever signs cheques to satisfy himself that the cheque is drawn for a purpose, or for a work specifically sanctioned by the General Committee. But the General Committee is not the only municipal authority which has the power to sanction works. The Chairman has power to sanction small works, and the Corporation has to sanction large ones. Therefore, it is necessary to make the wording more general."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to support the amendment."

The motion was put and agreed to.

[*Babu Surendranath Banerjee; Mr. Baker.*]

SECTION 119.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "General Committee" in lines 3 and 4 of sub-section (*3*) of section 112 (*now* 119), the word "Corporation" be substituted.

He said:—"It is a mere matter of deposit of investments, and the Corporation fixes the Banks. Therefore, it seems to me that in this case the Corporation also should fix the deposits. Section 112 (*now* 119) is as follows:—

'112. (*1*) Surplus moneys at the credit of any of the Municipal Funds which cannot immediately or at an early date be applied to the purposes of this Act, or of any loan raised under this or any former Act, may from time to time be deposited at interest in the Bank of Bengal, or invested in any of the securities or debentures mentioned in section 130 (*now* 135), sub-section (*1*).

'(*2*) All such surplus moneys which it is necessary to keep readily available for application to the said purposes, and all such surplus moneys which cannot, in the opinion of the Chairman, concurred in by the General Committee, be favourably deposited or invested as aforesaid, may be deposited at interest at any bank or banks in Calcutta which the General Committee may, subject to the control of the Corporation, from time to time select for the purpose.

'(*3*) All such deposits and investments shall be made by the Chairman on behalf of the Corporation, with the sanction of the General Committee; and, with the like sanction, the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and re-deposit or re-invest the money so withdrawn, or the proceeds of the disposal of such securities; but no order for making any deposit, investment, withdrawal or disposal under this section shall have any validity unless the same be in writing, signed by the Chairman and the Secretary.

'(*4*) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Funds.'

"The banks are selected subject to the approval of the Corporation. Therefore, I say that all deposits and investments shall be made by the Chairman on behalf of the Corporation and with the sanction of the Corporation instead of the sanction of the General Committee."

The Hon'ble MR. BAKER said:—"I think there is some misapprehension. The manner in which investments are to be made of surplus funds and the precise securities in which money may be invested are laid down in the Bill itself, in section 130 (*now* 135). That is absolutely fixed, and no one has any discretion. If any money is not to be deposited in the Bank of Bengal, it is for the Corporation to select the Banks in which the deposit may be made. All

[*Mr. Baker; Babu Surendranath Banerjee.*]

that remains is the mechanical routine work of making the deposit or investment. There is nothing further to be done. That is work which would be quite impossible for a large deliberative body to carry out. It really ought to be done by the Chairman, and the work in fact will be done by the Chairman; but, as it involves a certain amount of discretion, he is to require the sanction of the General Committee. It is quite unnecessary and superfluous to require the sanction of the Corporation in addition."

The Hon'ble BABU SURENDRANATH BANERJEE, then, by leave of the Council, withdrew the amendment.

SECTION 114.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clause (*c*) of section 114 (*now* 121) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that, if the last motion be lost, for the words "two lakhs" in clause (*c*) of section 114 (*now* 121), the words "one lakh" should be substituted.

He said:—"This is a matter of considerable importance, and I think the two amendments may be taken together. Clause (*c*) of section 114 (*now* 121) provides that the General Committee shall allow—

'(*c*) for a cash balance at the end of the said year of not less than two lakhs of rupees.'

"Under the existing law no statutory obligation is imposed upon the Corporation to provide a fixed sum as an annual cash balance. The Corporation is at liberty to provide for any cash balance it may think fit, and I think it will be admitted by those best acquainted with the working of the Corporation that the Corporation has always made ample provision in this respect. No difficulty has ever arisen within my knowledge owing to absence of a provision such as is now proposed. Now, Sir, you take away the discretion from the Corporation and you say that the Corporation must at least provide a cash balance of two lakhs of rupees. Sir, I desire to point out in the first instance that in the original Bill, instead of a cash balance of two lakhs, we had a cash balance of one lakh of rupees; and then it seems that my hon'ble friend, the Member in charge of the Bill, after some conference with the Municipal Executive, came to the conclusion that instead of one lakh of rupees the cash balance ought to be two lakhs.

Sir, I desire that in a matter of this kind the Corporation should be left absolutely free. The Corporation has not abused its discretion in this respect in the past, and it may be trusted not to abuse it in the future. Nay more, there is positive risk in a hard-and-fast rule on the subject; and, Sir, I desire to refer to the circumstances of the Government over which you preside. Under the orders of the Secretary of State the Bengal Government is obliged to have a cash balance of 20 lakhs of rupees. It is not a statutory obligation, and I think it is fortunate that it is not, because one year—and I think the fact will be in the recollection of most Members—our cash balance dwindled down to the sum of five lakhs of rupees. I should like to know what the position of Government would have been if there was a statutory obligation making it a duty by law that the cash balance should be fixed at the minimum sum of 20 lakhs of rupees. I think Government would have been placed in a position of considerable difficulty. You will place the Corporation in a position of considerable difficulty by laying down a hard-and-fast rule of this kind. Such a rule has not been found necessary; the financial work of the Corporation has gone on satisfactorily enough without it; and, that being so, it seems to me that it would be desirable to leave to the Corporation the discretion which it at present enjoys. Why should we lay down a rule to the effect that the cash balance must not be less than two lakhs of rupees? The Corporation may be trusted to leave a cash balance which would be amply sufficient for all purposes. That is the experience of the past, and the experience of the past ought to guide us in the future. There may be occasions—we cannot absolutely anticipate the future—when it might be difficult to have a cash balance of two lakhs; but if you have a hard-and-fast rule you will place the Corporation in a position of serious difficulty, perhaps at a time when its finances are not in a satisfactory condition."

The Hon'ble MR. BAKER said:—"This is a practical question. I admit that in the present Act there is no provision for any fixed closing balance. In Bombay, however, there is such a provision. In Bombay the Corporation is required to provide a closing balance of one lakh of rupees. Is it not inconsistent with sound finance that the Corporation should be at liberty to frame its budget in such a way that it should not have a suitable working balance? The Hon'ble Babu Surendranath Banerjee has told us that the Local Government is required under the orders of the Government of India to have a closing balance

[*Mr. Baker.*]

of 20 lakhs. That is so, and we always endeavour to work up to it. But how could there possibly be any statutory obligation on the Local Government? The thing is inconceivable. But here, in settling the constitution of the new Municipality, we are laying down rules for its guidance in all respects, including the provision of funds and its financial arrangements; and it seems an essential part and a most important part of those financial arrangements that we should prescribe some closing balance to which they should be required to work up. The Hon'ble Member has said that the Corporation has not abused its discretion in the past. That is so. I freely admit that; but I am informed that they have not always provided for a genuine working balance. I am informed that, although they have frequently shown an apparently larger balance than we now propose, that was only done by transferring a part of their capital account to the revenue account. That is what I understand is the case. I speak subject to correction; but I am informed that it is so. If that is the case, if it has often been the case, it is distinctly indicative of unsound finance, and, therefore, it is all the more incumbent upon us to make suitable provision for a real closing balance in this legislation.

"Then, Sir, with regard to the amount which should be fixed. The Hon'ble Member has rightly told us that in the original Bill it was proposed to take one lakh as the closing balance. But the Vice-Chairman, who is generally speaking in charge of the municipal accounts, represented to us that a balance of one lakh was not sufficient; for this reason: that the monthly amount which has to be disbursed on account of salaries and small contingent charges comes to very nearly one lakh of rupees. At the beginning of every month, within the first two or three days, a sum of very nearly one lakh has to be paid out on that account. Now, the result in the first week of April is this: that the balance on the 1st April is one lakh; by the 7th April almost the whole of that lakh has been paid out in the form of salaries, &c., on account of the month of March; and, if there are any bills on account of works coming in about that time, the account of the Corporation has to be overdrawn. Therefore, in the Vice-Chairman's opinion, a balance of two lakhs was essential. I am bound to say that it seemed to me the Vice-Chairman was right, and that was the view which commended itself to the Select Committee. It seems perfectly reasonable that we should provide a closing balance of a substantial amount, and not a purely nominal amount which is liable to be swept away in the ordinary course of current expenditure within the first week of the opening month of the year."

[*Mr. Oldham; Mr. Apcar; Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble MR. OLDHAM said:—"I have only to add in corroboration of what the Hon'ble Mr. Baker has said that this is a point on which the greatest stress is laid by our trusted Vice-Chairman of the Corporation, Babu Nilambar Mookerjee; and though I know my friend the Hon'ble Babu Surendranath Banerjee can reply to that, as he replied when the name of Mr. Bright was brought in, I would remind him that this matter was discussed by practical men, and no one has such practical connection with this matter as our respected Vice-Chairman, Babu Nilambar Mookerjee."

The Hon'ble MR. APCAR:—"I desire to support what the Hon'ble Member in charge of the Bill has said. I think there is a great deal of substance in what he said, and I am in favour of the inclusion of this clause."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I am not prepared to give up my opinion. I entirely endorse the remarks which have fallen from the Hon'ble Mr. Oldham in regard to the Vice-Chairman. He fully deserves the enconium which has been bestowed upon him.

"The Hon'ble Member in charge of the Bill has said that it is inconsistent with sound finance that there should not be a closing balance of one or two lakhs of rupees. I do not know what is good and what is bad finance, but I conceive that to be good finance in which the assets greatly preponderate over the liabilities; and I think that has been the financial condition of the Corporation all along. The Corporation has paid its way; it has had its cash balance, and it has a large credit, though I am sorry to say that that credit is now somewhat on the wane. Notwithstanding the absence of a provision like this to which the Hon'ble Member in charge of the Bill attaches such great importance, our financial position has been exceedingly sound, when judged not by reference to abstract theories, but to actual facts."

The Hon'ble MR. BAKER said:—"Is it not the fact that the nominal cash balance has been steadily dwindling for years?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I cannot say that it has been dwindling. Sometimes our cash balance was satisfactory, and sometimes not; but I do not think there has been a steady downward movement. After the plague it was bad, I admit, but I suppose the finances of everybody, not excepting that of the Government of Bengal, have been bad after the plague.

Therefore, that was a general condition to which the Corporation had to submit along with with other institutions of higher status and position.

"Then, with regard to another remark which the Hon'ble Member in charge of the Bill made, namely, that it is inconceivable that the Government of Bengal can have a statutory obligation imposed on them. Supposing there was an Act of Parliament? I presume an Act of Parliament would make it obligatory even on the Government of Bengal to provide for a cash balance of 20 lakhs, and that would be a statutory obligation. But, Sir, that is neither here nor there. I am sorry to find that all my friends, even the member for the Corporation, is opposed to this amendment; but still I am not prepared to give it up. I have had an opportunity of talking this matter over with friends, whose opinions are entitled to the highest respect as experienced members of the Corporation, and they are distinctly of opinion—and I echo their opinion in their matter, which is in entire accord with my own—that in this matter the Corporation should be permitted a free hand."

The motions were then severally put and lost.

SECTION 125.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 118 (*now* 125), line 5, the words "and re-submission within a specified time" be inserted after "further consideration."

He said:—"Section 118 (*now* 125) provides that—

"Subject to the provisions or sub-section (*1*) of section 117 (*now* 124), and to the other requirements of this Act, the Corporation may refer the Budget Estimate back to the General Committee for further consideration, or may adopt the Budget Estimate or any revised Budget Estimate submitted to them, either as it stands, or subject to such alteration as they may deem expedient:'

and clause (*b*) provides that—

'if by the twenty-third day of March the Corporation have not adopted any Budget Estimate, the Budget Estimate prepared by, or the last revised Budget Estimate submitted by, the General Committee shall, subject to any alterations that may be agreed upon by the Corporation and the General Committee, be deemed to be the Budget Estimate finally adopted, and the municipal rates and taxes shall be levied at the rates provided for therein.'

"Now, Sir, the provision is made that, if the Corporation do not decide one way or the other as to the adoption of the Budget Estimate on the 23rd day of March, the Budget Estimate submitted by the General Committee shall be taken as

adopted. Now, provision has been made for submission of the Budget Estimate to the General Committee for re-consideration. The General Committee ought to re-submit it within some time to be specified within the 27th of March for the consideration of the General Committee of those revised estimates. Unless a time is limited, and if the General Committee fail to submit the revised estimate as asked for by the Corporation, the Corporation would be thoroughly helpless, and the Budget Estimate, as submitted originally, will have to be taken as the one adopted. Therefore, when it is provided that the Budget Estimate may be referred back to the General Committee, that Budget Estimate after revision ought to be submitted to the Corporation within a time to enable them to adopt it or to modify it, and that is the reason why I have suggested that a certain time should be fixed within which to re-submit the report."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

The Hon'ble BABU JATRA MOHAN SEN also moved that in section 118 (*now* 125), clause (*b*), line 1, the words "twenty-ninth" be substituted for "twenty-third:"

He said:—"I may as well take this amendment along with my amendments 91* and 93† which point to the same object."

The Hon'ble MR. BAKER said:—"Amendment No. 91 relates to an entirely different matter. Amendment No. 93 is also quite different."

The Hon'ble BABU JATRA MOHAN Sen said:—"The first meeting of the Corporation to consider the Budget Estimate is provided for by section 116 (*now* 123), and section 115 (*now* 122) provides that the Chairman shall, not later than the 1st March, forward a copy to each Commissioner, and the earliest meeting that can be held is the 7th March of every year. Provision is made to refer it back to the General Committee. The time allowed is from the 7th March, and that is the earliest opportunity on which the Corporation can come to a decision as to whether the Budget Estimate should be referred back to the General Committee.

* That at the end of section 122 (*now* 127), sub-section (2), the words "or adopt both of these methods" be added.

† That in section 124A (*now* 130), line 2, the words "twenty-eighth" be substituted for "twenty-second."

[*Babu Jatra Mohan Sen; Mr. Apcar; Mr. Baker.*]

The General Committee will have to consider the Budget Estimate after it is sent back to them, and some time must elapse before they meet, and then the revised estimate will have to be circulated, and the time allowed is only between the 7th March to the 22nd March. It is only two weeks. It is a very short interval, and I only ask that the time be enlarged by one week more, that is, the 28th March. The object of the amendment is to give only another week to consider the whole matter. The Budget Estimate is a very important matter, and therefore it is desirable that the Corporation should be allowed to consider this matter at least for a period of three weeks, from the 7th to the 28th March. I think it is only reasonable that it should be so. The financial year closes at the end of March, and we take this matter up on the 28th March. It is very reasonable that three weeks should be given to the Corporation to fully consider the matter."

The Hon'ble MR. APCAR said:—"If the Hon'ble Member in charge of the Bill will allow me to speak first, I would submit a suggestion for him to consider. I think that, if the matter is to be resubmitted to the General Committee, there ought to be an opportunity given to the Corporation by the General Committee, for the Corporation to express their views about it. Whatever period it may be thought advisable to give for a final decision in the matter, I think a proviso somewhat to the effect that the General Committee do re-submit not later than seven days before the 16th March would be advisable."

The Hon'ble MR. BAKER said:—"That has already been carried on the motion of the Hon'ble Babu Jatra Mohan Sen which I accepted just now. The Corporation would fix the time with reference to the nature of the work to be done."

The Hon'ble MR. BAKER continued:—"I cannot accept this amendment. In the first place, the date, the 23rd of March, is really fixed by section 117 (*now* 124), which provides that—

'The Corporation shall, on or before the twenty-second day of March, after considering the General Committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in Part VI, the rates at which municipal rates and other taxes shall be levied in the next ensuing financial year.'

"Section 118 (*now* 125) merely lays down what the consequences are if the Corporation fail to settle the budget by that date. I would remind the Council

that in the original Bill all these dates in connection with the Budget were entirely different from what they are now. They were put much earlier in the year—nearly three months earlier. This was strongly objected to by the Corporation, it was strongly objected to by the Hon'ble Members who represented the Corporation on the Select Committee, and I may say I also took serious exception to them. We went into these dates with very considerable care, and we re-arranged the whole scheme of them, and the dates that are now in the Bill represent the conclusion at which we unanimously arrived. I think the Hon'ble Babu Surendranath Banerjee will bear me out. I think we ought not to change these dates without very strong reasons, and it would be very inconvenient to change them at the last moment. Moreover, there is a practical difficulty in accepting the amendment, and that is that the Easter holidays fall just about the end of March. It might happen that the period from the 29th March to the 3rd or 4th April was all close holidays, and the result of that would be that no Budget at all could have been settled until three and four days after the year had begun. I think it would be unsafe to take any date later than the 23rd March in this connection."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am in sympathy with the proposal of the Hon'ble Babu Jatra Mohan Sen, but I cannot overlook the practical difficulties in the way. There is one practical difficulty to which I desire to call special attention, and that is this: suppose the meeting of the Corporation is held on the 28th or 29th March, and the rates are altered. The bills would have to be issued on the 1st April. I do not think there would be sufficient time between the 29th March and the 1st April to permit of the issue of the bills on the 1st April. That is a serious difficulty, and it may interfere with the collections. This is a point which has been overlooked. The Hon'ble Mr. Baker was quite right when he said that these dates were suggested by the Corporation after most careful consideration in consultation with heads of departments, and I hope that they may be permitted to remain."

The Hon'ble BABU JATRA MOHAN SEN said:—"I am a stranger to Calcutta and not acquainted with the internal affairs of the Corporation. After hearing what has fallen from the Hon'ble Member in charge of the Bill and the Hon'ble Babu Surendranath Banerjee, I am prepared to withdraw this motion."

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Apcar; Mr. Bolton; the President.*]

The Hon'ble BABU SURENRANATH BANERJEE said:—"The Corporation ought at least to have a week's time from the time the Budget is laid before them by the General Committee, that is to say, the 16th March ought to be the latest date, I think, when the Budget should be laid before the Corporation by the General Committee after re-consideration."

The Hon'ble MR. BAKER said:—"I am disposed to agree to that, but it seems to me that the motion of the Hon'ble Babu Jatra Mohan Sen, which has been accepted,* will enable the Corporation to secure that. That was what I intended to say to Mr. Apcar. The Corporation, when they return the Budget to the General Committee, are empowered, under the Hon'ble Babu Jatra Mohan Sen's amendment, to fix a specified time within which the Budget is to be resubmitted to them. They can fix the time for themselves."

The Hon'ble Mr. APCAR said:—"I would ask that the date be fixed. I do not wish to disturb the dates as they have been fixed in the Bill. All that I seek is that there should be a statutory period within which these matters be resubmitted to the Corporation, say within a specified time not later than the 16th March, and, if that is accepted, I think it would be an advantage."

The Hon'ble Mr. BAKER said:—"How is it possible to do so? Suppose the Corporation only came to a conclusion themselves on the 16th March."

The Hon'ble Mr. BOLTON said:—"There may be more than one meeting of the General Committee, and the Corporation might send back the Budget Estimate for further information from the General Committee. The provision which will be made in accordance with Hon'ble Babu Jatra Mohan Sen's amendment will fully meet the case. The Corporation can fix any date suitable for the final consideration of the estimate."

The Hon'ble MR. BAKER said:—"Surely it is better to leave it elastic. The Corporation can fix any date they like."

The Hon'ble THE PRESIDENT said:—"I have no objection to the Hon'ble Mr. Apcar's framing a motion if he so wishes."

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* Printed on p. 665, *ante*.

[*Mr. Apcar; the President; Mr. Baker; Babu Jatra Mohan Sen.*]

The Hon'ble MR. APCAR said:—"I should like to place it on record that I do—'not later than the 16th March.' It should be provided that the General Committee do re-submit the estimates 'not later than the 16th March'."

The Hon'ble THE PRESIDENT said:—"Suppose the Corporation had its meeting on the 16th March?"

The Hon'ble MR. APCAR said:—"Then, Sir, they would not have an opportunity of reconsidering the question. But I wish to secure a consideration before that day."

The Hon'ble THE PRESIDENT said:—"Under the section as it now stands, suppose the Corporation had its meeting on the 16th March? I should like to know whether, after hearing the explanations offered, the Hon'ble Member wishes to frame a regular motion to put before the Council."

The Hon'ble MR. APCAR said:—"I should say that if there was this law I think the estimate would be submitted before the 16th March."

The Hon'ble THE PRESIDENT said:—"The law says that it should be submitted not later than the 7th day of March."

The Hon'ble MR. BAKER said:—"The words, 'specified time' mean a time to be specified by an order of the Corporation. That is exactly the wording of the motion."

The Hon'ble THE PRESIDENT said:—"The section as it will now read will be:—'The Corporation may refer the Budget Estimate back to the General Committee for further consideration and resubmission within a specified time."

The Hon'ble MR. APCAR said:—"After this discussion I will not trouble the Council with a further amendment."

The motion was then, by leave of the Council, withdrawn.

SECTION 127.

The Hon'ble BABU JATRA MOHAN SEN moved that at the end of section 122 (*now* 127), sub-section (2), the words "or adopt both of those methods" be added.

[*Babu Jatra Mohan Sen; Mr. Baker.*]

He said:—"I think it is reasonable that power should be given to adopt either one or other or *both* the methods referred to in this section. I do not think it requires any argument to support this."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

SECTION 129.

The Hon'ble MR. BAKER moved that the following words be added at the end of section 124 (*now* 129), namely:—

"or to pay off any debt due to the Government."

He said:—"Under section 406 of the present Act the Corporation have power to convert their loans, that is to say, they have power to borrow money for the purpose of paying off any existing loan. The circumstances under which that is done are usually when there has been a fall in the current rate of interest, and they have power to borrow money at the lower rate of interest then current in order to discharge a former loan on which a higher rate of interest was payable. The same provision is included in section 124 (*now* 129) of the Bill, but I have noticed that neither under the Act nor under the Bill is there any corresponding power given to borrow money to pay off a loan due to Government. The power under the Act and under the Bill is confined to borrowing money for the purpose of paying off debenture loans raised in the open market, and there is no such power in the case of loans which have been taken from Government. It seems to me, Sir, that it might be advantageous to the Corporation to have the same power in respect of their loans due to Government. There is only one such loan at present, a comparatively small one, in which the outstanding balance is 36 lakhs of rupees, but we cannot tell what loans there may be in the future; and it is possible that it might pay the Corporation to borrow money in the open market and pay off a Government loan. The history of the recent loans does not look as if it would be so, but, at all events, it is conceivable that it might be to the advantage of the Corporation to take that course. Therefore, I purpose to give the Corporation similar power in respect of Government loans to that which they have in respect of debenture loans."

[*Babu Surendranath Banerjee; Babu Jatra Mohan Sen*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have not the smallest objection to this amendment, which would enable the Corporation to pay off any loan due to Government. The marginal note, however, to the section will have to be altered."

The motion was put and agreed to.

SECTION 130.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 124A (*now* 130), line 2, the words "twenty-eighth" be substituted for "twenty-second."

He said:—"I do not think the same objection will be raised by the Hon'ble Babu Surendranath Banerjee to this amendment as to the difficulty of issuing bills with regard to assessments if there is any alteration made; but I think the Corporation ought to have an extended time to consider the reports of the General Committee with regard to the raising of loans. They would be busy no doubt with the Budget Estimate, revising assessments or making any other alteration that may be necessary which may interfere with the internal management of the Corporation; but still I think a larger period ought to be given to them to consider as to how and in what manner loans should be raised. I think an extension of a week's time is only reasonable."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As my friend the Hon'ble Babu Jatra Mohan Sen has referred to me and to my personal opinion about this amendment, I can only say that, if he had been acquainted with the practical working of the Corporation, I do not think he would have brought forward this amendment. The fixing of the rates is to take place on the 27th March, and the fixing of the rates and the determination of the loans take place at one and the same time. They form part and parcel of the same Budget statement. The two Budgets are considered together, and they are bound to be considered together, because the loans determine the rates; that is to say, if you provide for loans, you must provide for interest and sinking fund. You cannot therefore consider the rates irrespective of the loans. It seems to me to be an almost absurd proposal—but that is perhaps too strong an expression to use—to ask the Corporation to fix the loans after it has fixed the rates. The rates will have to be determined with reference to the loans. I think after this explanation the Hon'ble Member will perhaps withdraw his motion."

[*Mr. Baker; Babu Jatra Mohan Sen.*]

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee has exactly anticipated what I was going to say. The loan budget and the revenue budget must be taken together."

The Hon'ble BABU JATRA MOHAN SEN said:—"After these explanations I will not press the amendment."

The motion was then, by leave of the council, withdrawn.

SECTION 138.

The Hon'ble [illegible]AKER moved that in sub-section (3) of section 133 (*now* 138), the words "[illegible]tock to be so paid off shall be purchased in the open market and" be omitted, and that the words "and the stock to be paid off shall be purchased in the open market" be inserted after the word "prescribed."

He said:—"The object of this amendment is to correct a clerical error in the Bill. Under section 411 of the present Act the Corporation have power to consolidate their loans. It was intended to reproduce this section without change in the Bill, but the opportunity was taken, I understand, to slightly improve the wording of it, with the result that these two lines at the top of clause (3) were inserted in the wrong place, and they make nonsense of the section. The section as it stands is absolutely meaningless. As it now runs it is as follows:—

'(3) The stock to be so paid off shall be purchased in the open market, and the Corporation shall repay such loan by annual payments at a rate of not less than one-sixtieth of the unpaid balance in each year, instead of making payments into a Sinking Fund as hereinbefore prescribed; and such payments shall be made in priority to all other payments (other than payments prescribed by section 127 (*now* 133), sub-section (2), and section 133A) (*now* 140) due from the Corporation:'

"There is no reference anywhere to the stock to be paid off. The section as amended will read:—

'The Corporation shall repay such loan by annual payments at a rate of not less than one-sixtieth of the unpaid balance in each year, instead of making payments into a Sinking Fund as hereinbefore prescribed, and the stock to be paid off shall be purchased in the open market; and such payments shall be made in priority to all other payments (other than payments prescribed by section 127 (*now* 133), sub-section (2), and section 133A) (*now* 140) due from the Corporation:'

"That makes sense, but as the section stands it is nonsense."

The motion was put and agreed to.

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Apcar.*]

NEW SECTION.

The Hon'ble MR. BAKER moved that the following section be inserted after section 133, namely:—

"133AA (*now* 139). The time for the repayment of any money borrowed under section 124 (*now* 129) or section 133 (*now* 138) for the purpose of discharging any previous loan shall not, except with the express sanction of the Government of India, extend beyond the unexpired portion of the period for which such previous loan was sanctioned.

Time for repayment of money borrowed to discharge previous loan.

He said:—"I may explain that this section has been introduced under the directions of the Government of India. They consider that, when any new loan is raised for the purpose of paying off any existing loan, the currency of the new loan must not extend beyond the currency of the original loan. There is a similar provision in the Bombay Act, and the Government of India have stated that they consider it necessary to have similar provision here. There is just one loophole allowed, which is, the words, 'except with the express sanction of the Government of India.' They give us that amount of loophole for extending the currency of the loans beyond the original period, but without their sanction they refuse to allow it to be done."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Have you consulted the Municipal Executive about this matter?"

The Hon'ble MR. BAKER said:—"Not about this. But I may mention that we made two representations to the Government of India, and their orders are positive."

The Hon'ble Mr. APCAR said:—"I do not see any harm in this amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I should feel greater confidence in a thing of this kind if it had the support of the Municipal Executive, because they understand these things much better than those who are not connected with the actual administration of municipal affairs. It would have been an advantage—apart from the mandate of the Government of India—if we had an opportunity of ascertaining what the Chairman and Vice-Chairman thought about it."

[*Mr. Baker; the President; Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"We only received these instructions two or three days before the discussions began, so there really has been no time. As a matter of fact, we have made an unofficial reference to the Corporation. I have informed the Chairman and talked the matter over with him. I do not profess to be personally in favour of this section."

The Hon'ble THE PRESIDENT said:—"We will allow this motion to be postponed till to-morrow."

The further consideration of the amendment was then postponed to the next meeting of the Council.

SECTION 141.

The Hon'ble BABU JATRA MOHAN SEN moved that section 133B (*now* 141) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for section 133B (*now* 141) the following sections be substituted:—

"133B. (*1*) If any money borrowed by the Corporation from the Government, whether before or after the commencement of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may direct any Government officer, not being a municipal authority or officer, to detain, to the extent of any payments then in arrear, any moneys due, or that may become due, to the Corporation, which he may then or thereafter have in his custody or control.

(*2*) Such officer shall detain the moneys which he is so directed to detain, and pay the same, as they become due to the Corporation, to the officer for the time being appointed to receive Government dues, or into the Bank of Bengal.

"133C. (*1*) If the amount in arrear cannot be recovered in the manner provided in section 133B, the Local Government may attach the Municipal Funds, or any tax leviable by the Corporation.

(*2*) After such attachment, no person, except an officer appointed by the Local Government in this behalf, shall in any way deal with the attached Funds or tax; but such officer may do all acts in respect thereof which the Corporation or any municipal authority might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings.

(*3*) Provided that no such attachment shall defeat or prejudice any debt for which the Funds or tax attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the Funds or tax attached before any part of the proceeds is applied to the satisfaction of the debt due to the Government."

[*Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

The Hon'ble BABU JATRA MOHAN SEN said:—"My proposal is to omit section 133B (*now* 141) altogether. That section provides:—

"If any money borrowed by the Corporation from the Government, whether before or after the commencement of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the Municipal Funds or any of them.'

"My suggestion is that the control sections give ample power to the Local Government to interfere in all matters of this kind. This section, I should think, is redundant and unnecessary. If you refer to section 26 (*now* 18), it would appear that it makes provision as to how this knowledge is to be gathered by Government. In the face of this enactment I submit that this section is unnecessary."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I be permitted to make a few observations upon the motion of my hon'ble friend Babu Jatra Mohan Sen? I entirely accept the view which he has put forward that this section is absolutely unnecessary, and I venture to submit that the framers of the Bill were also of opinion that it was unnecessary because you do not find it in the original Bill. The original Bill contained more than 600 sections. It traversed every conceivable and inconceivable ground within the domain of municipal administration, and yet this section found no place in it. Therefore, I am right in holding that the framers of the original Bill did not think that a section of this kind was necessary. And, Sir, in regard to the section, I beg to point out that for the first time it was laid before the Select Committee in February, 1899. I have in my possession the paper that was circulated to the Select Committee and, therefore, I am able to give the date. Therefore, Sir, we are in this position that we are about to legislate upon a matter of this magnitude and importance, without the guidance of those public bodies whose opinions have been invited about the various provisions of the Bill. The Chamber of Commerce has not a word to say about this particular section. The Trades Association has not been consulted. The opinion of the Corporation has not been invited. Therefore, it is our duty to proceed with the utmost care and circumspection in this matter. I maintain that the section is unnecessary. It does not exist in the present law; it is not to be found in the law of 1876; it is not to be found in the law of 1863. Ever since we have had a Municipality in

[*Babu Surendranath Banerjee.*]

Calcutta, a provision like this has not been found necessary to safeguard the interests of the Government, and the Government has always freely lent money to the Corporation. Where then is the necessity for this section, especially when under the new law we are to have a Corporation which is practically to be controlled by officials? The only occasion when a default was made by the Corporation in respect of the payment of interest upon a loan due to Government occurred about a year ago owing to some bungling in the office. The matter is now being enquired into by the Corporation. The interest due upon a loan to Government was not paid, and in the first instance the Government directed that the penalty attaching to that default should be realised. On an explanation being submitted the penalty was remitted. That is the only case that I can recall in respect of a default made by the Corporation in the payment of interest on a loan due to Government. I do not think, Sir, that a case of this kind is likely to occur again after the precautions which the Corporation will no doubt take.

"But supposing for argument's sake it were admitted that what has taken place in the past might occur in the future, then there are the provisions of the Bombay section, which are embodied in my amendment. And these provisions are much less drastic than those which find a place in the Bill. The Bombay section provides, and my section is an exact reproduction of the Bombay section, that in the event of default being made by the Corporation in respect of the payment of interest on loans due to Government, the Chief Secretary to Government may direct any officer of the Government, not being a municipal authority, to attach any money which may be in or which may come into his possession belonging to the Municipality; and if the arrears due to Government cannot be recovered in that way, then the municipal funds and the rates and taxes may be attached. There is thus an intermediate stage. You do not attach under the Bombay Act the municipal funds and the rates and taxes at once, but an order is issued in the first instance by the Chief Secretary to a Government servant to attach any municipal moneys that may come into his possession; and if the arrears due are not thus recovered, then the extreme step of attaching the municipal funds in payment of the debt due is resorted to. Why should we avoid this intermediate stage? Why should we have a more drastic law for Calcutta than what has been found sufficient for Bombay? Let me point out that the section in the Bill is an exact reproduction

of section 6 of Act II of 1879; that is a Government of India Act. The section in the Bombay Act occurs in Act III of 1888 of the City of Bombay, and thus we have this fact that the section in the Bombay Act was enacted subsequently to the section in the Government of India Act. In other words, I am entitled to the conclusion that the Bombay Legislature, having section 6 of Act II of 1879 before them, deliberately enacted a section less stringent and less drastic. They thought that a milder section would answer their purpose, and they have not been mistaken, because the section has not been modified in a subsequent amendment of the Bombay Act.

"We cannot be too careful in dealing with matters which affect the public credit. I am sorry to have to say that the credit of the Corporation is not what it ought to be. The other day the Municipal Commissioners invited tenders for a loan of 25 lakhs of rupees, and how much did they get? The offer came to about 3½ lakhs, and they were obliged to go down so far as to accept offers of Rs. 95. I know not what may be the secret influences at work, but there is this fact that the credit of the Corporation at the present moment is not what it should be. I am perfectly aware of the fact that there is a proviso in the Bill which gives preference to the claims of the public creditor; but I venture to assert that public credit is such a delicate plant that we have to exercise the utmost care in dealing with it, and that nothing should be done which would prejudically affect it. When it is open to you to have recourse to a mild measure which may and will ordinarily be sufficient for your purposes, why have recourse in the first instance to the severe measure when the adoption of the mild measure does not preclude its subsequent adoption? It seems to me that it is only proper and wise that the milder alternative should first be adopted in preference to the severer one; and when we have failed by the adoption of the milder alternative, then adopt the extreme remedy. You are not deprived of it by my amendment. You are called upon to postpone it till you have tried the milder remedy. That is what I venture to suggest. If it is necessary to safeguard the interests of the Government, adopt the Bombay provision, which provides that, in the event of default being made, a Government officer is to attach any money which belongs to the Municipality which may come to his possession, and if that money is not available to him, or if that money is not sufficient to cover the default, then go and attach the municipal funds and the rates and taxes. I have had an opportunity of talking this matter over again with former

members of the Corporation, and they think that it is a dangerous provision, and may interfere with the credit of the Corporation; and therefore I ask that the Bombay section be adopted."

The Hon'ble MR. BAKER said:—"With reference to the last words that fell from the Hon'ble Babu Surendranath Banerjee that there is some risk that this provision might affect the credit of the Corporation, I would remind the Hon'ble Member that Mr. Turner and Mr. Spink were both members of the Select Committee, and this question was very fully discussed in their presence, and it was pointed out that the section in the Bill contains a proviso which absolutely safeguards all existing loans from being prejudiced by such attachment. That proviso says:—

'Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the Funds before any part of the proceeds is applied to the satisfaction of the debt due to the Government.'

"How, in the face of a provision like that, any prejudice could be caused to existing debts or to the credit of the Corporation I really cannot understand.

"I will briefly explain to the Council the origin of this section. In July last year the Corporation, as the Hon'ble Member has pointed out, made default in paying the instalment of interest and principal on its loan due to Government, and the matter had to be referred to the Government of India. On looking into the matter the Government of India noticed that in the present Act there was no provision by which Government could recover a debt due to itself. Neither in the present Act, nor in the old Act of 1876 nor in the Bill was there any such provision, and the result was that, in the event of default, Government would have been obliged to bring a suit against the Corporation in order to recover its instalments of interest and principal. It seemed to the Government of India that a civil suit by the Government against the Corporation was not a suitable remedy, and they, therefore, instructed the Local Government to introduce a section in the Bill corresponding to section 6 of the Local Authorities Loans Act of 1879, to enable Government in case of default to attach the funds of the Corporation, and apply them to the repayment of the debt, but not so as to prejudice any previous debt for which the funds were applied; and they pointed out that in Bombay there was a similar provision in sections 99 and 107. The Select Committee gave

effect to these proposals of the Government of India, and this section is the result. The Hon'ble Babu Surendranath Banerjee has not argued that the section ought not to be there. He has not argued that Government ought not to have any power of recovering a debt. But he has laid great stress on the fact that we have not incorporated a particular provision in the Bombay Act, which is to the effect that when there is a default the first step is to issue an order to some Government officer to attach any money due to the Municipality from Government which may be in his possession, and that, until that first step has been taken and found to be infructuous, the second stage of actual attachment of the municipal funds does not come into operation. I do not know exactly how that particular provision may work in Bombay. In Bombay there is only the Local Government. There are not two Governments, the Local Government and the Supreme Government; but here in Calcutta it would be extremely inconvenient, and, I may say, nugatory. The principal sums which are payable by Government to the Corporation are the rates and taxes payable on the various Government buildings which it occupies either as owner or occupier. There are hundreds of these buildings scattered all over the town. Some of them are in charge of various departments of the Government of India; some of them are in charge of various departments of the Local Government, and the rule is that each officer who is in charge or in occupation of a particular building has to pay, out of his official funds, the municipal taxes on that building. The result would be that if we adopted this Bombay system, in the event of there being default, we should have to issue orders to hundreds of officers all over Calcutta, including officers not subordinate to the Local Government at all, to detain the payment of municipal rates and taxes which might at that time be in their hands; and it would not be until we had got replies from all of these and added up all the various small sums that were due, and found them not sufficient to cover the amount due, that we could resort to the second stage. It is absolutely unpractical and inconvenient. We have simply carried out the perfectly equitable and reasonable instructions of the Government of India and supplied what is undoubtedly a defect in the present Act."

The Hon'ble MR. OLDHAM said:—"I am quite unable to understand the fervour which my hon'ble friend Babu Surendranath Banerjee has shown in this matter. If this provision was to be retrospective in effect, I could do so; but it is for future loans. Looking at the matter in the very narrowest way, it

will be acknowledged that the present loan from Government is very small, and therefore that there are likely to be very few loans from Government. It must also, I think, be taken that there is no compulsion on Government to make these loans, and that it may make them on what terms it pleases. So the effect of having these provisions laid down in the law will be that there will be a small bond or receipt when a loan is taken from Government instead of one of those long indentures with which it is the practice now for the Solicitors to the Corporation to favour us and for which we have to pay. The Hon'ble Babu Surendranath Banerjee has referred to the waning credit of the Corporation as evidenced by the falling through of the last loan. The loan did fall through in a very unexpected way; but it happens that in 1897, when I was not a member of the Corporation, the Corporation tried to float a loan for 25 lakhs and 10 lakhs fell through. The agitation referred to as possibly having been the cause of the present loan falling through, and of what is called the 'waning credit of the Corporation,' had not arisen. Last year, when that agitation was at its height, the Corporation floated a loan of 25 lakhs on the most favourable terms, and even on more favourable terms than Government had secured, and on far better terms than the Bombay Corporation was able to secure. Again, in March last the Corporation was able to float a small loan, I think it was 5 or 10 lakhs, and the terms obtained were most unexpectedly high. We attribute these fluctuations not in any way to the waning credit of the Corporation, but to the present state of the currency problem, by which we see that Government securities are falling and exchange is rising in a way which is entirely unexpected."

The Hon'ble Mr. Apcar said:—"I think my friend the Hon'ble Mr. Oldham has not exercised a very keen sight if he thought the suggestion of my friend the Hon'ble Babu Surendranath Banerjee related to this agitation as having had any influence on the financial situation of the Corporation. I do not see how it could affect this question at all. With regard to the proceedings of the Loan Committee, of course we are not here to discuss them, although I think it was unfortunate that they accepted the rates they did accept. However, I do not like to give a silent vote with regard to this amendment, but I have no intention of going into the matter because my hon'ble friend Babu Surendranath Banerjee has dealt with it. I do not wish to expand upon what he has said already to the Council, but I do not wish to be misunderstood. I say that I support the Bombay system in this connection.

[*Mr. Apcar; Babu Surendranath Banerjee.*]

"Sir, inasmuch as no other amendments appear in my name after section 100 (*now* 107), I may be permitted to make a personal explanation. I have come to the consideration of this Bill only very lately, and the task has been an exceedingly heavy one. Although it was intimated from the Chair that I succeeded to the labours of my predecessor as member for the Corporation, yet his head has not been placed on my shoulders, and I have had to do everything afresh for myself. So that, although I have given a great deal of time to the subject, I have not been able to keep up with the work that has been proceeding, and I have had other matters to attend to besides. Partly on this account, and partly in view of the current of decisions on the amendments that have been proposed, I have not sent in any amendments with relation to the further sections of the Bill. I hope it will not be understood that I acquiesce in everything subsequent to section 100 (*now* 107). I shall give my support, where I find that I can do so, to such of my hon'ble friends who have sent in amendments.

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"The Hon'ble Mr. Oldham, in replying to some part of my observations, remarked that it was incomprehensible to him how I could show so much fervour in connection with this matter. I will proceed to give him the explanation. I may remark that I show considerable fervour in connection with all matters appertaining to the Calcutta Municipal Bill, and, if I have displayed some little extra fervour in connection with this matter, it is because the provisions appear to me to be unnecessarily stringent and drastic. I consider the provisions of the Bombay section as being amply sufficient for all purposes, and the Government is needlessly making the Bill unpopular by making this section more stringent than it ought to be. My hon'ble friend in charge of the Bill has referred to the practical difficulties in the way of giving effect to the Bombay section. There are the offices of the Government of Bengal; there are the offices of Government of India; each office pays its own municipal rates, and it would be difficult to get together all these rates, and therefore it would be impossible to direct any particular Government officer to collect all these rates in satisfaction of any arrears that may be due to the Government. Sir, to this I have a simple reply to give. If the Hon'ble the Chief Secretary were to write a letter to the Accountant-General requesting him to ascertain the various Government offices which pay rates and ask those offices not to pay them, but to send them on to the Accountant-General, will there be any serious practical difficulty?"

[*Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"I am afraid there would. The Hon'ble Member is not acquainted with the official system, and I can assure him that the Accountant-General would decline to do that. He would say it was not his duty."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If an order was issued by the Government of Bengal, the Accountant-General would decline to do it! I cannot understand it. If the Lieutenant-Governor were to direct the Chief Secretary to issue an order to the Accountant-General, it would be in the nature of a mandate which the Accountant-General would be bound to give effect to. I cannot conceive how it is possible for the Accountant-General not to carry out such an order."

The Hon'ble MR. BAKER said:—"The Accountant-General is an officer of the Government of India. He is not under the orders of the Local Government."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am thankful to my hon'ble friend for this information, and I will change my position somewhat. If my hon'ble friend the Municipal Secretary were to direct the various offices which paid rates to the Corporation to withhold payment of those rates and to send them on to him to be held in deposit by him in satisfaction of a debt due to Government, would there be any difficulty?"

The Hon'ble Mr. BAKER said:—"I am afraid there would."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"In that case, if I may say so, I am prepared to cut the Gordion knot. I can suggest a simple remedy which I think would be a solution of the whole difficulty. My hon'ble friend in charge of the Bill is probably aware that the Port Trust pay about 1½ lakhs or more every year to the Corporation in the shape of rates. Could not that be attached at once? I think that would cover whatever dues the Corporation has to pay to the Government in respect of loans. If my hon'ble friend will accept this suggestion, I am prepared to modify my amendment upon these lines."

The Hon'ble MR. BAKER said:—"That would not be money due by Government to the Corporation."

[*Babu Surendranath Banerjee; Babu Jatra Mohan Sen; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"They could be attached by Government. Here is the Port Trust which pays to the Corporation 1½ lakhs of rupees every year. If the Corporation make default to the Government in respect of the payment of any interest upon any loan, is it impossible for the Municipal Secretary to write to the Port Trust to hold this money in deposit and not to pay it to the Corporation in order that it might subsequently be paid in satisfaction of the interest due to Government. I do not really think, Sir, the difficulties are insuperable, and, if the difficulties are not insuperable, then I say it is most unwise to have a drastic provision like this. I do not think I need further occupy the time of the Council."

The Hon'ble BABU SURENDRANATH BANERJEE proposed the addition of the words "of the Port Trust" after the words "officer, municipal authority or office" in sub-section (*1*) of the proposed section 133B.

The Hon'ble BABU JATRA MOHAN SEN said:—"Having regard to sections 114 and 118 (*now* 121 and 125), as to how the Budget is to be framed and how provisions are to be made as to the payment of these loans and interest, I do not see how any occasion can arise as to attaching the funds in the hands of the Corporation. The section is obnoxious and ought to be avoided as much as possible, if it can be avoided without any difficulty arising in the way of realising the interest due to Government on account of loans. The Chairman has been authorised to spend these moneys, and on one occasion, I understand, on account of an oversight of a clerk or some officer in charge, payment of the interest was not made."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee must have been misinformed. A default in payment of a large sum like this was certainly not due to any misconduct of a petty clerk. It was much more than that."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I used the words 'bungling in the office' and as a matter of fact it was owing to the change in the office of Chairman that the matter was lost sight of. Mr. Bright went away and Mr. Greer came in."

[*Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

The Hon'ble BABU JATRA MOHAN SEN said:—"The Chairman being in charge of the funds, and being authorised to make these payments, and he being an officer of Government, I think no occasion will arise to make any such default. It has occurred once in 23 years. I think the provisions contained in other sections are sufficient to cover a case of this kind, and I should not desire that another obnoxious section should be inserted in order to meet the same object. The Chairman being in charge of the funds, and as it lies in him to pay this interest on loans, no occasion will arise to enforce this section 133B, and therefore it ought not to be enacted."

The Hon'ble BABU JATRA MOHAN SEN'S motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE'S motion in the amended form being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

SECTION 142.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following words be inserted after the word "may" in line 4 of section 140 (*now* 142):—

"with the approval of the Corporation."

[*Babu Surendranath Banerjee; Mr. Baker; Babu Jatra Mohan Sen; the President.*]

He said:—"Section 140 (*now* 142) refers to the keeping of accounts and it provides as follows:—

'Accounts of the receipts and expenditure of the Corporation shall be kept in such manner and in such forms as the General Committee may from time to time prescribe.'

"I suggest that the accounts should be kept in such a manner and in such form as the General Committee with 'the approval of the Corporation' may from time to time prescribe. It is a matter of finance and the keeping of accounts, and I think, Sir, the forms which the General Committee may prescribe should be subject to the approval of the Corporation. It is a very small matter."

The Hon'ble MR. BAKER said:—"I am quite opposed to this amendment and have only one word to say about it. I take it there is not one single function for which the Corporation, a body of 50, can be less fitted than that of prescribing forms for keeping accounts. That can only be done by a single person. It cannot really be done in practice by the General Committee. It must in practice be done by the Vice-Chairman or Chairman."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I would point out that there may be in the Corporation experts in accounts, who may not have a place on the General Committee, and it is an advantage that such members should have an opportunity of giving the General Committee the benefit of their special knowledge. I thought it was a very small matter and the Hon'ble Member in charge of the Bill would see his way to accept it, but I find he thinks differently about it."

The Hon'ble BABU JATRA MOHAN SEN said:—"My amendment No. 99 is to the same effect, 'that in section 140 (*now* 142), last line, after the word 'may' the words 'subject to the control of the Corporation' be added; and, for the reasons put forward by the Hon'ble Babu Surendranath Banerjee, I beg leave to move this amendment. It is the same as my hon'ble friend's proposal, so I do not propose to speak separately on this."

The Hon'ble THE PRESIDENT said:—"I have no doubt if there was an expert in the Corporation who was not on the General Committee, the General Committee would gladly accept his advice in any matter of this kind."

The motion was then put and lost.

[*Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

The last motion having been lost, the Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that in section 140 (*now* 142), last line, after the word "may" the words "subject to the control of the Corporation" be added.

SECTION 143.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for sub-section (*3*) of section 141 (*now* 143) the following be substituted:—

"(*3*) The auditors so appointed shall receive such reasonable remuneration, not exceeding in the whole ten thousand rupees *per annum*, as the Corporation may from time to time determine."

He said:—"Sir, the present law is contained in section 75 of the Municipal Act. It runs as follows:—

'All auditors acting under this Act shall in respect of each audit be paid such reasonable remuneration as the Commissioners in meeting shall from time to time determine.'

"Therefore, the payment of the fees is a matter which has now to be determined by the Commissioners in meeting. In Bombay the fees are fixed by the Corporation subject to a maximum of Rs. 10,000, which is not to be exceeded on any account. Here no maximum is fixed, and I propose to introduce a maximum on the lines of the Bombay Act. The present section has worked well. I only know of one case where there was a difference of opinion between the Corporation and Government in regard to the payment of the auditors. I think Government claimed Rs. 8,000 for the payment of the auditors; the Corporation wanted to pay only Rs. 7,000. After some little controversy the Corporation paid the sum demanded by the Government. I propose to modify the present Act upon the lines of the Bombay Act, so that, if necessary, the Corporation may pay the auditors a sum not exceeding Rs. 10,000. The Bill proposes that the amount to be paid to the auditors shall be fixed by the Government not exceeding the cost price. The General Committee is to be, so to speak, the conduit pipe for the payment of the amount. The General Committee is to receive the order from the Government. It is to have no discretion whatsoever. Government is to determine the amount to be paid by the General Committee, and the General Committee having received the order from Government is to carry it out. I hardly think that is a satisfactory state of things. The payment of the auditors is a matter which ought to be determined by the Corporation

subject to such limitations as may safeguard the interests of the Government. For this reason it seems to me that we could do nothing better than adopt the provisions of the Bombay Act, leaving the matter to the discretion of the Corporation subject to a maximum which is not to be exceeded, namely, Rs. 10,000. The cost of the audit cannot, in any case, come up to more than Rs. 10,000, and, subject to this maximum, I maintain that the matter should be left to the Corporation, and they will decide what amount has to be paid."

The Hon'ble MR. BAKER said:—"The appointment of auditors must be made by some authority entirely outside the Corporation. That is provided for by the Bill. That being so, it seems necessarily to follow that the remuneration of the auditors should also be fixed by the same outside authority. That is the primary ground of objection I take to the amendment. As regards the amendment which the Hon'ble Member proposes, I at once admit that Rs. 10,000 is likely to be more than enough. I have no objection so far as that goes, but as a matter of principle I should object to Rs. 10,000 or any other limit being fixed. What has to be provided for is an efficient audit; since the auditors must be appointed by Government, their remuneration should be fixed by Government, and Government should charge the cost price whatever it may be. Why should we fix an arbitrary limit of Rs. 10,000 or any other arbitrary sum, whether that sum is likely to be sufficient or not?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My reply to the observations of the Hon'ble Member in charge of the Bill is very simple. The chief point taken up by the Hon'ble Member is this: the auditors being appointed by the Government, the payment should be determined by the Government. My reply is that the auditors are now appointed by the Government, but the payment is made by the Corporation. Therefore it comes to this: that for the last forty years the principle which has been laid down by the Hon'ble Member in charge of the Bill with all the weight of his authority has been violated by the Government which has enacted our municipal laws, and no serious harm has been done; the world has gone on well enough in spite of these breaches of his principle; and it seems to me that, if the principle were to be further violated by the acceptance of my amendment, I do not think any serious harm would be done to any interest. I think in a matter of this kind we ought to move on the line of least resistance. What has been the law in the past in Calcutta has been

the practice in Bombay. Let us follow the models that are before us. Let us not do something which is neither the one nor the other. I do not suppose the fees will exceed Rs. 10,000, and to be on the safe side I thought it right to fix a maximum which can under no circumstances be exceeded."

The Hon'ble THE PRESIDENT said:—"I do not know what the Hon'ble Member's experience about maxima is, but my own experience is that they are always worked up to; and, if you can get your work done for Rs. 7,000 but put a maximum of Rs. 10,000, you will surely find the bill go up to the Rs. 10,000. That is my experience. I only give it for what it is worth."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "General Committee," in line 1 of sub-section (*3*) of section 141 (*now* 143), the word "Corporation" be substituted.

He said:—"Since my previous motion was lost, I beg to move this one. The payment is to be made subject to the order of the Government, but I propose that the payment should be made by the Corporation, because it is the funds of the Corporation that are to be audited. The funds do not belong to the General Committee. I think that is the correct principle, if my Hon'ble friend will take his stand upon principles."

The Hon'ble MR. BAKER said:—"The funds are the funds of the Municipality; they are not the funds of the Corporation. The Corporation is only one out of three governing bodies. I cannot admit that principle."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"The finances of the Municipality are vested in the Corporation. The power of the purse belongs to the Corporation."

The Hon'ble MR. BAKER said:—"Subject to certain limits, and one of those limits is that payments under Rs. 10,000 are made by the General Committee. Of course this amendment has no real effect. The payment is a compulsory one which has to be made on the order of Government to the auditors who are appointed from outside. It makes no earthly difference in practice whether nominally the payment is made by the Corporation or the General Committee. It is purely a matter of sentiment. In order to be consistent, as the payment ordinarily will not exceed Rs. 10,000, why not leave it to the General Committee?"

The Hon'ble MR. APCAR said:—"The Hon'ble Member in charge of the Bill makes a distinction between the Corporation and the Municipality. I confess I cannot see any distinction. The Chairman is a member of the Corporation, the General Committee merges in the Corporation, and whatever sum is paid under the seal of the Corporation is from funds vested in the Corporation; and I cannot accept any distinction between the Municipality and the Corporation. Inasmuch as the funds are vested in the Corporation, I think they ought to have a right to deal with them."

The motion was then put and lost.

SECTION 145.

The Hon'ble BABU BOIKANTA NATH SEN moved that the following words be added to section 143 (*now* 145):—

"and shall bring such report before the Corporation for consideration at their next meeting."

He said:—"I venture to think that there will be no serious objection to this amendment, at least on the ground that it attempts at securing general subordination of the General Committee and of the Chairman to the Corporation. There can be no doubt about this, that the Corporation, as distinguished from the General Committee, has to find funds, and to impose the rates and taxes. No doubt the power of spending the money vests with the General Committee and the Chairman. The Municipality is thus placed—taking the Municipality as composed of these three different authorities—that the Corporation has to find the funds and the General Committee and the Chairman are to spend them. Then as to the accounts, section 140 (*now* 142) provides that the accounts of the receipts and expenditure of the Corporation shall be kept in such manner and in such forms as the General Committee may from time to time prescribe. The accounts have to be kept in that way. The accounts are to be the accounts of the Corporation. Those accounts have to be examined under section 141 (*now* 143), and, when they are examined by the auditor, he is to submit his report, and that report goes to the General Committee and then to the Chairman as soon as may be after the completion of their audit. Section 142 (*now* 144), clause (*c*), says—

'as soon as may be after the completion of their audit, deliver to the General Committee a report upon the municipal accounts.'

[*Babu Boikanta Nath Sen; Mr. Baker.*]

"Then section 144 (*now* 146) provides that—

'It shall be the duty of the General Committee forthwith to remedy any defects or irregularities that may be pointed out by the auditors.'

"If there are any mistakes or irregularities pointed out, it would be the duty or the privilege of the General Committee to remedy those defects. The Council no doubt do not lose sight of this fact that the Corporation has something to do with it, and therefore naturally it has shown the courtesy to provide in section 143 (*now* 145) that the Chairman shall cause the report mentioned in section 142 (*now* 144), clause (*c*), to be printed, and shall forward a printed copy thereof to each Commissioner along with the papers mentioned. Individual Commissioners are to be furnished with this report; they are to get this information for their knowledge; but not the Corporation. Why should this information be given to these individual Commissioners only? Why should the Corporation be slighted and overlooked, and what is the object of this? I propose that the Chairman shall bring such report before the Corporation for consideration at their next meeting. If this information is to be given to individual Commissioners and if the Corporation itself should acquire this knowledge through these individual Commissioners, why should this body, which has the responsibility to find the funds and have their accounts kept in their name, be deprived of its inherent power of discussing these matters? Under the law, as provided in this Bill, they can have no control over the General Committee or the Chairman. There is no apprehension of their being brought under general subordination; they would simply have a right to discuss. The effect is simply to have a moral influence. Nothing further than that is intended. Is it not desirable, just, proper and expedient that this body, which is responsible for the funds, who would be financing, properly speaking, should have this right of deliberating over the report of the auditor and have a discussion, and have their deliberations recorded? They will not have any right to say to the General Committee or the Chairman—Such and such defects and irregularities have been pointed out and will you please correct them. They will simply have this right, as it were, of discussing the matter, and my amendment seeks only to restore to them, as it were, the power which they are being deprived of discussing the report. I think, therefore, Sir, that this amendment is a simple one which ought to be accepted."

The Hon'ble MR. BAKER said:—"I am ready to accept the amendment."

The motion was put and agreed to.

[*Babu Surendranath Banerjee; Mr. Baker; Babu Jatra Mohan Sen.*]

SECTION 146.

The Hon'ble BABU SURENDRANATH BANERJEE moved that at the end of section 144 (*now* 146) the following words be added:—

"and to report the same to the Corporation."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Boikanto Nath Sen's motion is that the report is to be laid before the Corporation for its consideration. This amendment is that the General Committee, having carried out any defects pointed out by the auditors, are to report having done so to the Corporation. They are not the same thing, but I am quite ready to accept this amendment also."

The motion was put and agreed to.

The Hon'ble BABU JATRA MOHAN SEN moved that the following proviso be added to section 144 (*now* 146), namely:—

"Provided that, if the General Committee or the Corporation are of opinion that the report of the auditors is not correct as to any matters, they may, without unreasonable delay, represent their views to the Local Government, and suspend remedying the defects or irregularities as to those matters until the decision of the Local Government is received."

He said:—"Section 144 (*now* 146) as amended by the last amendment runs as follows:—

'It shall be the duty of the General Committee forthwith to remedy any defects or irregularities that may be pointed out by the auditors and report the same to the Corporation.'

"To this I wish to add the proviso I have just moved. My experience has been in mufassal municipalities that in cases in which the auditor found and reported on many matters which occurred to him were irregularities or defects, they turned out afterwards to be not really so. The Government and the Commissioner of the Division agreed with the municipality that as a matter of fact the defects or irregularities pointed out by the auditors on more than one occasion were not really defects or irregularities at all. Now that we have accepted the amendment of the Hon'ble Boikanta Nath Sen to section 143 (*now* 145), I understand that the Corporation has a right to pass some opinion as to those reports, and, that being so, I think it is fair that if a general body like the Corporation find that as a matter of fact defects and irregularities pointed out by Government auditors are not really so, and if they entertain any

[*Babu Jatra Mohan Sen; Mr. Baker; Babu Surendranath Banerjee.*]

sort of strong opinion on the matter, they ought to be empowered to represent their views to the Local Government, and to suspend the remedy of such defects and irregularities till the Government order is received. I think this will commend itself to the Council."

The Hon'ble MR. BAKER said:—"This is an absolutely unpractical amendment. The audit of the accounts and the keeping of the accounts are purely technical matters, and it seems to me that the suggestion that the General Committee and the Corporation should be invited to dispute the advice and recommendations of their professional advisers in a matter like this, is not one that can be seriously discussed."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Sir, I am prepared to support the amendment of my hon'ble friend Babu Jatra Mohan Sen. In regard to the recommendations which are from time to time made by the auditors appointed to audit the accounts of mufassal municipalities, we find that mistakes are sometimes committed. Sir, I happen to be acquainted with a mufassal municipality, and I distinctly remember some years ago certain recommendations being made by the auditors which we did not consider to be useful. We ventured to call in question those recommendations, and we did not give effect to them. Things of that kind take place—I will not say constantly—but they do take place. Therefore, Sir, with all the respect that I feel for experts in regard to all matters, it is conceivable that the recommendations made by the auditors may not commend themselves to the General Committee. I think, Sir, that is a state of things which is conceivable, and it is not to be brushed aside in a summary fashion as has been done by the Hon'ble Member in charge of the Bill. I may say—and I think my hon'ble friend, Mr. Apcar, will be able to corroborate my experience—that we have not always been satisfied as members of the Corporation with the audit that has been made. I will call my friend's attention to one matter—the Entally Workshop. Year after year the accounts of the Entally Workshop are audited by the Government auditors. They were passed by them, and we were naturally led to think that everything was right and proper; but then, Sir, the whole thing was overhauled at the instance of an independent member, and we discovered discrepancies and things worse in the accounts which led to a complete examination of that institution. Therefore, I do not think we ought to regard auditors

[*Babu Surendranath Banerjee; Mr. Apcar; Mr. Mackenzie; Mr. Oldham.*]

as being absolutely infallible, and, if we do not regard them as such, the General Committee ought to be permitted to suspend action being taken upon the statement of the auditors. Under these circumstances, it seems to me that the recommendation of the Hon'ble Babu Jatra Mohan Sen after all is not so unreasonable as the Hon'ble Member in charge of the Bill assumes it to be."

The Hon'ble MR. APCAR said:—"I entirely endorse what my friend has said, and I think it would be advisable to have this proviso. It does not mean that the Corporation will have power to disregard the auditors' recommendations of their own responsibility or of their own knowledge, but it may be that they are able to bring to the consideration of the subject independent opinion which would be convenient to Government to consider. Under these circumstances, I support the amendment."

The Hon'ble MR MACKENZIE said:—"I am entirely opposed to this amendment on the ground stated by the Hon'ble Member in charge of the Bill. We are not legislating here for the mufassal. We have expert auditors, and my experience, which is by no means limited, is that their audit is generally satisfactory. The Hon'ble Babu Surendranath Banerjee referred to a discrepancy, but he gave us no details, and it is quite possible that it may have arisen in stock-taking which is not the auditor's duty. The stock is taken for him, and he accepts the stock in the books, and it is quite possible the discrepancy may have arisen in respect of the actual stock."

The Hon'ble MR. OLDHAM said:—"I, too, think that my friend the Hon'ble Babu Surendranath Banerjee is not speaking exactly to the point which was referred to by the Hon'ble Member in charge of the Bill, when he opposed the motion. I, too, have had personal experience of the auditors in the case of mufassal municipalities and wards' estates, but the recommendations which these gentlemen are in the habit of making are quite different from the absolute defects which would be pointed out by such auditors as we should employ in Calcutta, and it is the case that in regard to the Entally Workshop the discrepancies and frauds entirely referred to stock-taking, and not to the keeping of accounts."

[*Babu Jatra Mohan Sen; the President; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU JATRA MOHAN SEN, in reply, said:—"With regard to the remarks that have fallen from the Hon'ble Member who represents the Chamber of Commerce, I submit that the mufassal auditors are as much experts as the auditors employed to examine the accounts of the Calcutta Corporation. There is no difference whatever. My amendment will not raise any difficulty whatever in remedying defects or irregularities complained of. All that I propose is a very moderate proposition, namely, that the remedying of defects and irregularities be suspended till the decision of the Government be obtained. After Government is placed in full possession of facts and figures supplied by the Corporation and the General Committee, I do not know how any practical difficulty will arise as to the carrying out and remedying the defects and irregularities pointed out by the auditors, if they really turn out to be so when the Government has fully considered the whole matter on full information received. There will be no practical difficulty, and I venture to think that this amendment ought to be carried."

The Hon'ble the PRESIDENT said:—"I would only point out before taking the vote that this duty of the General Committee is performed under the control of the Corporation and the Local Government, and the only authorities to enforce this duty upon the General Committee are, first, the Corporation, and, secondly, the Local Government. If the Local Government or the Corporation were of opinion that there was a sufficient reason for not carrying out the suggestions of the auditor, they would not enforce the duty, and therefore it seems to me that the section is quite sufficient, because the duty will only be enforced in those cases in which the superior authorities are of opinion that the suggestions of the auditors should be given effect to."

The motion was then put and lost.

SECTION 150.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148 (*now* 150), line 2, after the word "worship" the words "or for charitable purposes" be added, and that sub-section (*2*)* be omitted.

He said:—"The object of this amendment is to place buildings and land used for the purposes of public charity precisely on the same footing as lands or buildings used for the purposes of public worship. It will be observed that, under the section as it stands in the Bill, it is obligatory upon the Corporation to

* The sub-section (2) here referred to forms part of sub-section (1) of section 150 of the Bill as passed.

exclude from assessment all buildings used for purposes of public worship and public burial or burning grounds duly registered under Chapter XXXV (*now* XXXIX), but it is in the discretion of the Corporation to make a similar exemption in the case of buildings or land used for purposes of public charity. I find from the Bombay Act, section 143, that the two classes of buildings, namely, those used for public worship and those used for the purposes of public charity, are placed on the same footing; and, as it seemed to me to be desirable that the Corporation should promote public charitable objects, I have thought it right to put this amendment before the Council. I am bound to say that the words 'public charity' in the Bombay Act have led to considerable difference of opinion; indeed, a question was raised there some time ago whether or not the University of Bombay was a Corporation which existed for purposes of public charity within the meaning of that section; and two eminent Judges of the Bombay High Court held that the University came under the section and was entitled to exemption (I. L. R. 16 Bom. 217). If my amendment is carried, there will be, at least, two institutions which will be benefited, namely, the University of Calcutta and the Indian Association for the Cultivation of Science; and I venture to think that, as the Municipality has done nothing directly in the way of encouraging education, it may do so indirectly."

The Hon'ble MR BAKER said:—"The Hon'ble Member the mover of this amendment is quite right in saying that in Bombay buildings used for charitable purposes are exempted from the payment of rates, but I think it is wisest to follow the precedent of the English law on the subject. The leading case is that of St. Thomas's Hospital in London. It was fought out before four Judges, and it was fought out at great length, and I think we ought to stand upon a principle which has become settled and recognised law. Moreover, I submit that to accept this amendment would give rise to great practical confusion and doubt in determining which portions of a building are used for charitable purposes and which are not. That is what I am informed by the Vice-Chairman of the Corporation."

The Hon'ble MR. HANDLEY said:—"I observe that the Hon'ble Member has not even qualified his amendment by using the term 'public charity.' In clause (2) of section 148 (*now* 150) a discretion is given to the Corporation to exempt buildings or lands used for purposes of public charity, but here merely the words 'charitable purposes' are used. Such a provision may open a door to

abuses of all kinds. There are mosques and musjids so-called and religious *muths* in which the families of the resident-priest or mullahs remain."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am prepared to qualify my amendment by the insertion of the word 'public' before 'charitable purposes'."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I must oppose this amendment, as I feel certain that it will lead to serious complications. The present law is that places of public worship and burial and burning grounds are exempted from the rates; and even such a simple phrase as 'places of public worship' has given rise to considerable inconvenience, and at this moment a case is pending in this connection. The case is one to which I called attention the other day. It is the case of Babu Jadoolall Mullick's temple. It is urged that this temple is a place of public worship; the Corporation holds that it is a place of private worship, and a controversy is going on. It is right I should add for the good name of the Corporation that it has been most generous in dealing with the taxation of public charities. Under the present law we cannot exempt public charities from the payment of rates; but applications are constantly coming up asking for such exemption. The Loretto Orphanage, the Mayo Hospital, and many other cases I could mention, have made such applications and have made them with success. Well, under the law, we cannot make an exemption, but we make a contribution corresponding to the whole or half the amount of the consolidated rate payable by such charities, and we thus give them relief. We go about in a circuitous fashion, and in that way we do what the requirements of justice demand. I find that the municipal law as it prevails in the mufassal is in accordance with the law in Calcutta. Section 87 of the Bengal Municipal Act says that the tax shall not be assessed in respect of the occupation of any building used exclusively as a place of public worship or as a burial or burning ground. Not so in the case of public charities. If a municipality wants to exempt any place of public charity from taxation, it becomes necessary to take the sanction of the Local Government before it can do so. It records a resolution in favour of exemption, and then takes the sanction of the Local Government. This Bill is in advance of the existing law. Under the existing law we cannot exempt any place of public charity; under the Bill a discretion is given, and my hon'ble friend the mover of the amendment should be satisfied with it; because, if all places of public charity were to be exempted,

all sorts of complications would arise. Charities would be started with the simple object of obtaining exemption from the payment of the rates, and then, as soon as the object was attained, they would disappear altogether as charities. Therefore, it seems to me that to enact a provision of this kind, to make it the law of the land, will open a wide door to fraud. I am perfectly certain that my hon'ble friend does not want such a result, and I hope therefore that, having regard to the present practice of the Corporation which I have explained, he will withdraw this amendment. I am in perfect sympathy with the next two amendments* of which my hon'ble friend has given notice."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"The point of difference between myself and my hon'ble friend is a very small one. He says that a discretion should be given to the Corporation in this matter. My view is that places of public charity should be placed on the same footing as places of public worship and that both should enjoy statutory exemption."

The motion being put, the Council divided as follows:—

Ayes 4.	*Noes 14.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
	The Hon'ble Babu Surendranath Banerjee.
	The Hon'ble Mr. Apcar.
	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

* Printed *infra*, p. 899.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that the following proviso be inserted in section 148 (*now* 150), namely:—

"Provided that the following buildings and land shall not be deemed to be used exclusively for public worship or for purposes of public charity within the meaning of this section, namely:—

(*a*) buildings or land in or on which any trade or business is carried on; and

(*b*) buildings or land in respect of which rent is derived, whether such rent is or is not applied exclusively to religious purposes or purposes of public charity."

He said:—"This provision is taken from section 143 of the Bombay Act, and its object is to restrict the operation of section 148 (*now* 150) of the Bill to lands and buildings *exclusively* used for religious or public charitable purposes. Such a restriction is obviously needed to protect the Corporation from unfounded and fraudulent claims for exemption."

The Hon'ble MR. BAKER said:—"I think this amendment is a distinct improvement, and I hope it will be accepted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I support the amendment."

The motion was put and agreed to.

SECTION 151.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for clauses (*a*) and (*b*) of section 148A (*now* 151) the following be substituted:—

"the estimated gross annual rent at which any building (including a hut or shed) or land liable to the consolidated rate under this Act might reasonably be expected to let from year to year shall be deemed to be the annual value of such building or land:"

and that the words "under clause (*a*)" in proviso (*ii*) to section 148A (*now* 151), and the whole of provisos (*i*), (*iii*) and (*iv*) to the same section, be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that, if the last amendment be lost, the words "three and-a-half" be substituted for the word "five" in line 4 of clause (*b*) of section 148A (*now* 151), and that the words "and less ten *per cent.* for the cost of repairs" be inserted after the word "any" in line 8 of clause (*b*) of section 148A (*now* 151).

[*Dr. Asutosh Mukhopadhyaya ; Babu Surendranath Banerjee.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148A (*now* 151), clause (*a*), the words "erected for letting purposes or ordinarily let" be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (*b*) of section 148A (*now* 151) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that, if the last amendment be lost, in section 148A (*now* 151), clause (*b*), for the words "deemed to be five *per cent.*," the words "the amount derivable as interest, calculated according to the highest rate of interest payable on Government securities," be substituted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 148A (*now* 151), proviso (*iii*), for "of five *per cent.*" be substituted "according to the rate stated in clause (*b*)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I regard this as a very important part of the Bill. Section 148A (*now* 151) of the Bill is section 122 of the present Act, and I may add that an animated debate took place in this Council on the occasion of the introduction of this section of the law in 1888.

"The object of my amendment is to restore the law to what it was in 1888. The law of assessment in 1876 provided that the annual value of a house or building shall be the lettable value of that house or building, the rent which that house or building is expected to fetch from year to year. That was the law of assessment in 1876, and it was the law of assessment in the Act of 1863. Thus this principle of assessment has been in force from 1863 to 1888, and then the law was changed. The principle of assessment as regards rented houses is kept intact under the law of 1888, but the principle has been changed as regards residential houses. The principle which then for the first time was enacted as the law of the land is this: the annual value is to be 5 per cent. on the present estimated cost of the building *plus* the value of the land *minus* a certain sum to be allowed for purposes of deterioration. This is the present law of assessment as regards residential houses. It is this principle of assessment as regards residential houses that I venture to assail in this Council. It was indeed introduced by no less an authority than Sir Henry Harrison. It was said

by him, in justification of this new law of assessment, that it is difficult to ascertain the annual valuation of residential houses in accordance with the principle laid down in the law of 1876, and the result was that houses in the northern portion of the town were considerably under-assessed. Even if that were admitted for the sake of argument—I am not prepared to accept it as a correct statement of the facts—is it a justification for the gross over-assessment of residential houses all over the town under the present law? I venture to challenge the statement that there has been any difficulty felt in assessing residential houses in accordance with the principle of assessment contained in the law of 1876, and I shall be able to quote in support of this statement no less an authority than that of Sir Richard Garth, late Chief Justice of Bengal. He said in one of his judgments:—

'The principle of rating which the Commissioners follow at present (the principle of the law of 1876) is the same as that which is adopted in England, and similar difficulties arise there in the case of great buildings and mansions erected for residental purposes and not for sale, but these premises are constantly being rated at their letting value.'

"He goes on to say that the principle is a good and workable principle. I go further than that. I contend that the principle of assessing residential houses under the law of 1888 is a principle which in its practical operation is beset with serious difficulties, and I am prepared to quote in support of that statement the authority of the municipal Executive itself. I will quote an extract from the Annual Administration Report of 1889-90, page 53:—

'A totally new system of assessment has been introduced in respect of houses occupied by the owners, that is, fixing a percentage on the estimated present cost of rebuilding a house. For the proper working of this section it is necessary to find out how the estimated present cost of rebuilding a house is to be calculated. Is it the sum which a European or a native contractor would charge or the owner himself would spend? How are the materials to be valued? Many old houses are built with materials which are now not procurable in the market. Are other and more costly materials to be substituted in their place? Then, again, what is a reasonable amount to be deducted for depreciation? Upon what principle is this depreciation to be calculated? It is difficult to find a standard by which depreciation can be ascertained. There is nothing in the law to indicate it. ..... The executive officer has to work the law as he finds it, and he is in no way responsible for its shortcomings.'

"That is the deliberate statement of the responsible executive head of the Corporation, as it appears in the Administration Report for 1889-90. Therefore,

[*Babu Surendranath Banerjee.*]

I am entitled to hold that, in the practical working of the principle contained in the law of 1876, there has been no difficulty, and that whatever difficulties have been felt have all been felt in consequence of the change of the principle of the law of 1876, and the adoption of a different principle which finds a place in the law of 1888. In this connection I will, with the permission of the Council, quote an extract from a report which was laid before the Select Committee on the Bill of 1888—a report which was made by a Committee of the House of Commons over which Mr. Goschen presided. Mr. Goschen is one of the greatest financiers of tne age; he is now the first Lord of the Admiralty and a Cabinet Minister, and an undoubted authority on all financial questions. This is what he said with regard to this principle:—

'When it appears to the assessing authority that for special reasons a building cannot be fairly valued according to the annual rent which a tenant might reasonably be expected to pay for it, it shall be valued in the following manner:—

the gross value of any such building shall be a sum equal to 4 per cent. on the capital sum which a purchaser might justly be expected to give for such a building in its actual state and existing mode of occupation.'

"Therefore, it comes to this,—and I attach very great importance to the report of Mr. Goschen's Committee, and I am quite sure the Council will attach the greatest importance to the report of a Committee presided over by so distinguished an authority as Mr. Goschen,—that ordinarily the annual value should be the lettable value of the building or house; but if, for special reasons, it is difficult to ascertain the lettable value, then the annual value should be taken to be the market value of the house or building. This question of the market value was raised by Dr. Guru Das Banerjee in 1888. He pressed Sir Henry Harrison to accept a percentage upon the market value of the house or building in substitution of the present system of taking a percentage upon the estimated present cost of erecting the house or building, less a reasonable amount for depreciation; and at one stage of the discussion—I find from the Council Reports—Sir Henry Harrison held out hopes that he would accept that view, and he asked for an adjournment in order to consider the principle advocated by Dr. Guru Das Banerjee. Sir Henry Harrison, however, subsequently changed his mind and opposed Dr. Guru Das Banerjee's amendment, and urged that the acceptance of the principle of taking the market value would be beset with far greater embarrassment than the principle contained in the Bill. I hope this Council will take a different view. I hope

they will insist on the market value being taken as the basis of valuation, for in my opinion it is the only equitable way of proceeding to ascertain the annual value of a house or building. I base my case on the broad considerations of justice and equity; and if I am able to convince the Council that I have relied on such considerations, then I should be entitled to ch[illegible] the verdict of the Council in support of my amendment. Take the case of a person who has purchased a residential house for Rs. 10,000, which is the market value of that house; he finds, however, that the assessment on that house is made upon a valuation of Rs. 15,000, in accordance with the principle which finds a place in the law of 1888. Is it equitable that he should purchase a house for Rs. 10,[illegible] and have to pay rates on Rs. 15,000? And most houses have been purchased by those who reside in them; not many are built by persons for their own residence. Therefore, you practically call upon a very large number of the owners of residential houses to pay a sum which is fictitious, an exaggerated sum over and above what would be the assessment upon the market value of the houses in which they reside. This is a matter which deserves serious consideration. My hon'ble friend Dr. Asutosh Mukhopadhyaya has given notice of an amendment in this connection, and I hope the Council will accept that amendment—I hope the Council will give redress by accepting the market value of the house or building as the basis of assessment in substitution of the principle embodied in the law.

"It was said in the course of the debate in Council in 1888 that the principle accepted by Sir Henry Harrison, and embodied in the Act of 1888, followed the lines of certain principles laid down by John Stuart Mill in his Treatise on Political Economy. I desire to read an extract from Mill. Mill says:—

'A valuation should be made of the house, not at what it would sell for, but what would be the cost of rebuilding it, and this valuation might be periodically corrected by an allowance for what it had lost in value by time or gained by repairs and improvements. The amount of the amended valuation would form a principal sum, the interest of which at the current price of the public funds would form the annual value at which the building should be assessed to the tax.'

"My contention is that the law of 1888—and it is a law against which I desire to record my protest—is not in conformity with the principles laid down by Mill. It was alleged by Sir Henry Harrison that in following those principles he adopted them in only a qualified form. If those principles had

been accepted, then the annual value would not be 5 per cent., but 3½ per cent., of the estimated present cost of building, *plus* the value of the land. And furthermore there should have been a section exempting houses below a certain sum from payment of the consolidated rate. I have given notice of an amendment to that effect, and I understand the Hon'ble Member in charge of the Bill is prepared to accept that amendment. My contention, therefore, is that the present law goes beyond the principles laid down by Mill, and that, when critically examined, it will be found not even to be based on those principles. I go further and say that those principles are not applicable to the circumstances and conditions of life in this country. Mill regards a house-tax as a sort of income-tax, and so it is in London and the great towns of the United Kingdom. But I venture to assert that a house-tax in India is not in the nature of an income-tax. And I will tell you my reasons for holding this opinion. A Hindu builds a house in conformity with a deep-seated instinct of his nature; it is a wish nearest to his heart to build a house and leave it to his children and his children's children as a memorial of his love and affection for them. Sometimes he has not the money to build a house, but he incurs a debt in order to do so; the house, therefore, in many cases is not evidence of his prosperity. It often is an index of his indebtedness; for, as it happens sometimes, as soon as the house is built, he goes to the money-lender to mortgage it. The state of things in England is totally different. An Englishman does not ordinarily build a house; when he becomes wealthy, he builds a house and becomes the lord of a manor; his house, therefore, gives some idea of his income, and he ought to be taxed accordingly. The house of an Indian is, on the other hand, often an index of his indebtedness, and not of his income upon which he should be taxed. A house-tax may be in the nature of an income-tax in England; it is not so in this country. In Bombay the principle against which I am contending is not the principle of assessment; there the annual value is the lettable value. In the mufassal here it is the same. I do not know what the law in Madras is, but probably it follows the same lines. You have in Calcutta a law based professedly on the principles of political economy, but representing a great departure from those principles. It is based on considerations applicable to a house-tax, and not on those applicable to an income-tax. I hope I have made it abundantly clear that a house-tax in Calcutta is not, and cannot be, in the nature of an income-tax. I don't wish to remind the Council of the discussions which took place in this Council in 1888; they are more or less a matter of ancient

history. I do hold that I am entitled to claim a reversal of the legislation of 1888 if I can show that a grievous burden, hard to be borne, has been thrown on the middle-class people in Calcutta. Soon after this section of the law of 1888 came into operation it was applied to Ward No. 6; and I have obtained a statement of the increase of assessment which took place at that time in consequence of the application of this section to that ward. I find that in the case of 139 houses the rate of assessment was increased in the proportion of from 1 to 10 per cent.; in the case of 264 houses it rose from 10 to 20 per cent; in the case of 175 houses from 20 to 30 per cent.; in 162 houses from 40 to 50 per cent.; in 80 cases from 50 to 60 per cent.; in 35 cases from 70 to 80 per cent.; in 37 cases from 80 to 90 per cent.; in 27 cases from 90 to 100 per cent. There are increases even to the tune of 200 per cent. and more. In 13 cases the increase was from 110 to 120 per cent.; in 9 cases from 120 to 130 per cent.; in 5 cases from 140 to 150 per cent. Altogether there was an increase in the case of 1,177 houses. In 12 cases the increase was 250 per cent.; in 2 cases from 240 to 250 per cent.; and in several cases from 230 to 240 per cent. And the sum total of the assessment is thus summarised: Out of 2,018 houses there were 853 in which the assessment was raised from 1 to 50 per cent.; in 249 houses from 50 to 100 per cent.; in 80 cases from 100 to 200 per cent. The total increase was from Rs. 5,54,866 to Rs. 6,81,319; and then there were several cases pending. This, I submit, is the most convincing illustration that it is possible to adduce on the operation of this section of the law to which one can refer. A petition was presented in 1890 to the Local Government against the assessment sections of the law; that petition was made over to Sir Henry Harrison for an expression of his opinion. Sir Henry Harrison observed in a note on that petition that 'when the whole town had been re-valued under the Act of 1888, the equity of the valuations might be tested by a Committee of Engineers and Surveyors; and if they found that residential houses occupied by their owners were exceptionally more highly valued than other classes of buildings, let redress be promptly given.' And that assurance was repeated by the Government of Bengal. The then Lieutenant-Governor, in a Resolution, observed that in his 'opinion this suggestion is one which may very properly be attended to if the owners of houses built for their own occupation should, when the present revaluation of the town is finished, still find that they have been unfairly treated.' The middle-class owners of residential houses have, I submit, been undoubtedly very unfairly treated. They repeat the complaint

now which they made in 1890—they have suffered greatly; they are not rich men; the Government promised them redress—prompt redress; that redress has not yet been given."

The Hon'ble MR. BAKER said:—"An enquiry was promised."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I shall be satisfied with an enquiry. I shall rely with confidence on the judgment of a Commission of Enquiry. If the Hon'ble Member in charge of the Bill is able to give an assurance that an enquiry will be made by competent persons, I shall for the present be satisfied; for I know that, as the result of such an enquiry, it will be found that a grievous burden has been thrown on the owners of middle class houses built for residential purposes. I appeal to Your Honour for justice to these classes; they suffer from a serious and substantial grievance which ought to appeal to our strongest sympathies. I know that there is a difficulty in the way if this section of the law is remodelled on the lines I suggest. The municipal revenues will suffer; but I submit that no considerations of revenue should prevent justice being done to the suffering owners of residential houses, if they can legitimately claim it at Your Honour's hands, and to that justice I venture to think they are entitled."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The object of the amendments which stand against my name is practically identical with the object of those just moved by my hon'ble friend. That object is to abolish the distinction which was for the first time introduced in the Act of 1888 between the modes of assessing the rateable value of buildings erected for letting purposes or ordinarily let and buildings erected for residential or other purposes. The present Bill reproduces faithfully the provisions of the Act of 1888, and it may, perhaps, be said that the system which has been acquiesced in for ten years may well be allowed to stand. But, Sir, as the present Bill has destroyed the vital characteristics of a system which has been cherished by the people for at least a quarter of a century, I feel that it would not be right and proper to accept, without question or contest, a system of assessment which, in my humble judgment, is absolutely unsupportable on principle.

"But, before I deal with the question of principle, I shall ask the Council to consider for a moment what is the precise distinction between the mode of

[*Dr. Asutosh Mukhopadhyaya.*]

valuing houses or buildings erected for letting purposes or ordinarily let and those erected for residential and other purposes. In section 148A (*now* 151), clause (*b*), it is provided that the annual value of any building not built for letting purposes and not ordinarily let shall be deemed to be 5 per cent. on the sum obtained by adding the estimated present cost of erecting the building, less a reasonable amount to be deducted on account of depreciation, if any, to the estimated value of the land valued with the building as part of the same premises Clause (*a*), which deals with the mode of assessment of the other class of buildings, provides that the annual value shall be deemed to be the gross annual rent at which the land or building might reasonably be expected to let from year to year. Consider this for a moment. The case we are dealing with is the case of a house erected for letting purposes or which is ordinarily let; but, although at the time of the assessment the house may have been actually let, the actual amount of rent paid by the tenant is not to be accepted as the measure of the rateable value of the building, but it is the rent at which the building may be reasonably expected to let from year to year; it is not the actual rent which is paid, but the rent which a hypothetical tenant may be expected to give for that house or building. With a clear conception of the distinction between clauses (*a*) and (*b*) of section 148A (*now* 151), let us now examine the grounds upon which this system of assessment is based and defended.

"It is urged, in the first place, that it is not fair to apply to a mansion, built for residential purposes, which the owner never intends to let, and which, as a matter of fact, is never let, a principle of annual value which in its terms applies only to buildings erected for letting purposes. It is said that to apply the principle in this way is nothing short of an attempt to include within the operation of the rule cases which by the very terms of the rule are excluded from its scope. Now consider for a moment that, even in the case of a building which is erected for letting purposes or ordinarily let, you do not proceed upon the basis of the actual rental, but only upon the basis of the rental which might reasonably be expected to be derived if the building was let from year to year. In other words, even in the case in which a building is actually let, you proceed upon the basis of the rental which might be derived from a hypothetical tenant. Is there, then, any good reason for the contention that as a mansion, built for residential

[*Dr. Asutosh Mukhopadhyaya.*]

purposes, is never let, you cannot take as the basis of your valuation the rental which might be paid by a hypothetical tenant? If you introduce the hypothetical tenant in the one case, what is there to prevent you from introducing the hypothetical tenant in the other case? Indeed, it seems to me that the two positions are absolutely inconsistent and irreconcilable.

"In the second place, it is urged by the defenders of the system that if we introduce the fiction of a hypothetical tenant, as we do in the case of a building erected for letting purposes, we are sure to land ourselves in a difficulty, as there are no data upon which we can proceed. It is said that there are buildings, whether built for residential or other special purposes, of which it would be impossible to find an occupier other than the owner himself. But the answer is, that the difficulty is not greater here than in the other case where you also introduce the hypothetical tenant. A concrete illustration which you will find reported in the Reports (I. L. R. 10 Mad. 38) will make it manifest that there is no special or particular difficulty here. In 1886, the Municipality of Madras assessed the Lying-in Hospital, which was the property of the Government, at Rs. 12,000 a year. It was contended on behalf of the Government that the valuation was unreasonable beyond all bounds, because, if the premises were to be let, there was no private person who would pay Rs. 1,000 per month for these buildings, which were only suitable for the purposes of a hospital. It was even suggested on behalf of the Government that, if the lease of the hospital were put up to auction, it would not probably fetch more than a merely nominal sum. This contention was overruled and a decision given in favour of the Municipality on the ground that the true test of rateable value must be taken to be the rent for which the premises could reasonably be expected to be let to a hypothetical tenant who required the building for the purposes of a hospital, and that the Government must not be excluded from the number of hypothetical tenants who might be supposed to be willing and anxious to rent the premises. This view of the Madras High Court is in perfect accord with the current of English decisions, the last and the most authoritative of which was pronounced by the House of Lords so late as September, 1893 (App. Cas. 1893, page 562). It would not be fair for me, Sir, to pass over without mention a passage from the writings of the great economist Mill, which is relied upon by the supporters of the theory I am

[*Dr. Asutosh Mukhopadhyaya.*]

assailing, and a portion of which has just been read by my hon'ble friend Babu Surendranath Banerjee. The passage in question is to this effect:—

'The public were justly scandalised on learning that residences like Chatsworth or Belvoire were only rated at the imaginary rate of perhaps two hundred a year under the pretext that, owing to the great expense of keeping them up, they could not be let for more, and probably even they could not be let for that, and, if the argument were a fair one, they ought not to have been taxed at all.'

"Now, Sir, these words were written about half a century ago, and the subsequent course of events has amply showed that the difficulty to which Mill alludes does not really exist if in assessing the rental you assess it upon the basis of what would be paid not by an actual but by a hypothetical tenant; and that is the principle which since the days of Mill has been adopted in England, has received the approval of the House of Lords in the case I have just referred to, and has been partially adopted by this Council itself in the case to which the provisions of section 148A (*now* 151), clause (*a*), are applicable.

"In the third place, Sir, I shall presently show that the system which was introduced in the Act of 1888, and which is faithfully reproduced in the present Bill, is based upon a fiction for which there is no justification either in fact or in principle. It is urged that when a person builds a mansion for residential or other special purposes the proper test is, not what the house might be let for, because it was never intended to be let, but what is the interest derivable from the capital sunk, as it must be assumed that, when the owner spent his capital, he must have intended to recoup himself fully by the benefits derivable from his occupation; in other words, the assumption is, that when a person has spent a certain sum upon the creation of the property, he would have been equally willing to have paid a reasonable percentage on the outlay as rent to a contractor willing to erect the property and let it out to him? I need hardly say that this is entirely mythical. A man often builds a house which suits his convenience more than the convenience of any other man, and, in building it, he may and often does spend more money in lavish ornamentation than he would do if he had intended it for tenants. Take one illustration more, *viz.*, that of the hospital built by the Madras Government or the one now in course of construction in this city. Did the Government ever calculate that the amount of benefit to be derived was at least equivalent to the amount derivable as interest upon the capital sunk? But, if you introduce one fiction which

is not founded on fact, you have necessarily to support it by another fiction equally baseless. Once assume that the person who builds a mansion sinks capital in the expectation of a profitable return, there is no room for retreat; you have further to imagine the rate of interest which he expects as profit. You readily assume this to be 5 per cent. I ask, if there is any basis for this arbitrary figure? Why not make it 4 per cent. or 6 per cent.? It would certainly be more rational to assume the highest rate of interest payable on Government securities. I have it on the high authority of Lord Chancellor Herschell that there is no foundation for the arbitrary assumption you make. In the case to which I have already referred he deals with this matter, and I shall venture to quote one passage from his speech:—

'It was said that a practice prevails of taking 5 per cent. on the cost, in the case of buildings, as a basis for arriving at the rental. Such a rule of thumb may be all very well where the premises would be likely to find competing tenants, but is not by any means necessarily applicable where it is thought that the owner would be likely to give a higher rental than any one else. It would often be obvious that he would never be willing to pay the rent arrived at in such a fashion, inasmuch as it would be more advantageous for him to become the owner. There are many other circumstances, too, which may affect the answer to the question what the owner of premises would have been willing to give, if, instead of becoming the owner, he had become the tenant of them. In all cases of the description of which I am speaking, the whole of the circumstances and the conditions under which the owner had become the occupier must be taken into consideration, and no higher rent must be fixed as the basis of assessment than that which it is believed the owner would really be willing to pay for the occupation of the premises.' (App. Cas., 1893, p. 593.)

"Language more clear and emphatic it is difficult to conceive, and I will not add any feeble argument of my own; for, if the authority of Lord Herschell does not carry conviction home to the Members of this Council, nothing else will.

"To summarise, it seems abundantly clear to me, Sir, that the whole system is based upon an assumption which has no foundation in fact and which has no justification in principle. If it was permissible to analyse the reason which lies at the root of the matter, but which is never publicly avowed, it seems to be this: when a wealthy man has built a mansion, he has given manifest proof of his wealth; he has the means to pay and let us tax him. I wish, Sir, this were the principle, uniformly applied to all—to the poor and

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

to the rich alike. If the taxes were regulated according to the means of the individual rate-payer, I am sure we should touch the pockets of many who now manage to escape with the payment of comparatively insignificant amounts."

The Hon'ble MR. BAKER said:—"The amendments which have been moved by the two Hon'ble Members relate to two separate matters. The first of them relates to the adoption of the principle of valuing residential houses according to some percentage on the cost of construction. The other matter relates to the particular percentage at which the assessment should be made. I will deal with these two matters separately.

"In the first place, I wish to observe that this matter has been fully discussed on three separate occasions. It was discussed at great length in Council in 1888 when this principle was first introduced by Sir Henry Harrison, and the Council then decided to accept it. It was again considered in 1890, when a petition was submitted by a number of influential house-owners protesting against the principle of the Act of 1888. That petition was sent to Sir Henry Harrison for report, and he recorded a very lengthy and most able minute dealing with the whole question—a minute which was characterised by the Government as an able, elaborate and conclusive vindication of the provisions of the existing law. The conclusions of the Local Government on the matter were formulated in a Resolution, dated the 7th June, 1890, in which the whole question was again reviewed; and the decision arrived at was that although residential houses were still somewhat under-assessed, yet the result of the recent legislation was nevertheless a decisive approach to fairness and equal taxation. That is not all. Later on in the same year, a further memorial was submitted to the Viceroy, and was forwarded to the Local Government for report. The views of this Government on the further memorial were expressed in a letter to the Government of India, dated the 15th October, 1890, in which it was maintained that the mode of valuation prescribed in 1888 was undoubtedly much better and fairer in its results than the habitual under-valuations under the old law of the class of houses concerned. The Government of India endorsed the opinion expressed in Sir Henry Harrison's minute and in the Resolution and letter of the Government of Bengal, and considered that they disposed of the arguments of the memorialists on all points, and they declined to interfere.

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"It is rather to be regretted, under these circumstances, that this question should be brought up again. I have read the various representations made by the Corporation and by the British Indian and other Associations, and I have listened to the arguments which the two Hon'ble Members who have moved amendments have adduced, and I must say that I find nothing new in them; nothing but the old arguments put forward in 1888, which were then proved to be fallacious and unsound. I do not propose to take up the time of the Council by reading the proceedings of this Council in 1888 when this principle of valuation was first adopted; but if, after hearing what I have to say on the subject, any Member still feels any doubt, I would ask him to read the Resolution and letter of the Government of Bengal which deals with the subject in a manner which is quite convincing.

"First, I should explain, for the information of the Council, a matter which all Hon'ble Members may, perhaps, not quite understand—what meanings are put on the terms 'residential' and 'tenanted' houses. What is meant by a tenanted house is a house built for letting purposes and ordinarily let. By residential house is meant a house built by any one, not for the purpose of letting or selling it, but for the purpose of living in it himself with his family. The number of residential houses in Calcutta used in that sense is 11,945 as compared with 20,562 rented houses. The proportion of residential houses is about 40 per cent. of the whole number of houses in Calcutta, and that is a proportion which is not approached in any town in England. The annual valuation of these 11,900 residential houses at the present rate is Rs. 45 lakhs and the annual valuation of the 20,562 rented houses is, I think, 104 lakhs.

"The English law of rating on which the Indian law is based is to be found in the Statute 6 & 7 Wm. IV, cap. 96, an Act passed in 1836. It lays down the principle that the annual value of a hereditament shall be the rent at which the same may be reasonably expected to let from year to year free of all tithe, commutation charges, insurance, repairs, and the like. Under the Calcutta law of 1876 and also the law of 1888, the annual value of houses is based on that principle. The law of 1876 laid down that the estimated gross annual rent at which any house or land may be expected to let from year to year, less in the case of a building an allowance of ten per cent. for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent, shall be the annual value. In the Act of 1888 the same words

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were used in respect of the annual value of houses erected for letting purposes or ordinarily let. In respect of residential houses, however, a different rule was laid down. The reason for introducing a different rule in that case was this. In the case of rented or tenanted houses the rent, which is based on open competition, is a very fair criterion of the relative annual value as between one house and another. But in the case of residential houses it is not so. In the case of residential houses which are not let, there is no actual rent, and the annual value must be determined in some other way. I will explain what was the method adopted in ascertaining the valuation of such houses before the passing of the law of 1888. The matter was in the hands of Assessment Benches selected from among the Commissioners themselves by lot, and I may mention that there were good reasons for selecting them by lot. As these houses were not actually let, there was no actual rent, and the Assessment Benches had to ascertain the annual value in some other way. What they did was this. It occasionally happened that a residential house passed out of the hands of the owner and was let. They used to take a house of this kind; they used to ascertain what rent was actually paid for a house of that description, and they used to take that rent as a standard of the annual value of similar residential houses, having due regard to locality and accommodation. Now, a valuation obtained in that way is entirely unsuitable and inadequate. There exists in Calcutta amongst Hindus the strongest possible prejudice against living with one's family in a hired house. It was stated by Dr. Gurudas Banerjee in the discussions of 1888 that there is a general feeling that a man ought to possess a place of his own to live in with his family. It was stated by Babu Nilmoney Mitter that so strong is this prejudice that a person would rather live in tiled huts on two or three cottahs of land of his own, than in a comfortable hired pucca house. It was stated today by the Hon'ble Babu Surendranath Banerjee that a Hindu builds a house in accordance with an instinct instilled into his nature; he builds it in order to leave it to his family as a monument of his affection for his children. Now, Sir, it is a consequence of this feeling and prejudice in Calcutta that there is no demand for residential houses for the purpose of letting; no one wishes to hire one; no one wishes to let one; there is no effective demand for that class of houses. Ordinarily such houses never come into the market at all either for sale or for hire, and it is only by accident that they are let for hire at all; and, when a man is compelled by untoward circumstances

to let his house, he has great difficulty in finding a tenant, and, if he finds one, he is compelled to accept what the tenant chooses to give. The case is entirely different from the case of houses which are let in the ordinary way. Now the Assessment Benches took this depreciated rental as the standard for fixing the annual value of residential houses which are never let. In this way, they set up an entirely false standard of valuation, and the consequence was that residential houses in the occupation of owners were habitually and systematically under-assessed. Sir Henry Harrison estimated the under-assessment to be from 30 to 50 per cent. Mr. Allen, the then Legal Remembrancer, estimated the percentage on the actual cost of constructing such houses to be frequently as low as 2 per cent. In the case of Nundo Lal Bose, which is probably the case to which the Hon'ble Babu Surendranath Banerjee referred just now, it was admitted that the valuation on the cost of construction of the house, a new and costly house, situated in a good part of the town, amounted to only $2\frac{3}{4}$ per cent. upon the actual cost, and even that insignificant percentage of the cost was appealed against by the owner. Babu Nilmony Mitter, an experienced engineer, stated that the prejudice against living in a hired residential house, and even against hiring one which had not been built for one's occupation, was so strong, that even if a new house was sold immediately after it was completed, it would possibly not fetch what it cost the owner to build it. This, as Sir Henry Harrison characterised it, was a grave scandal. It was a scandal that a class of houses owned by many of the wealthiest members of Calcutta society and by a very large number of middle-class people, and by hardly any of the poorer classes, should be habitually under-assessed. To remove this scandal Sir Henry Harrison took the following course. He proposed to follow the principles of the English law as laid down by the Courts in England. It is true that in England there is not the same distinction between rented and residential houses. There is no prejudice there against living in a hired house, and houses occupied by the owners are hardly to be distinguished from those occupied by ordinary tenants. But there is a class of buildings in England with regard to which the same difficulty has occurred as has been experienced here—I mean manufactories, warehouses, hospitals, lighthouses, and the like. These are buildings which are not built for the purpose of letting, and which are usually occupied by their owners and are not let. The principles which the English Courts have applied to ascertain the

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annual value of such buildings are these. They are laid down in a well-known case, and this is what the Judge said in that case:—

'A hypothetical tenant must be assumed[1].'

"That is to say, the principle simply is this: In order to ascertain the rent which a hypothetical tenant might be reasonably expected to pay, you must first take the annual value of the land; then you must ascertain what would be paid to a contractor for labour and materials for constructing the building, and the contractor's profit; then you must allow a certain percentage for deterioration, so as to get the value of the building in its present state; and on that sum you must take a reasonable percentage, and that will be the annual value. That is exactly what has been done in this Bill. Section 148A (*new* 151), clause (*b*), lays down the principle that the annual value of any building not erected for letting purposes and not ordinarily let shall be deemed to be 5 per cent. on the sum obtained by adding the estimated present cost of erecting the building, less a reasonable sum to be deducted on account of depreciation, if any, to the estimated value of the land valued with the building as part of the same premises. That is exactly the principle laid down in this very class of cases by the decisions of the highest Courts in England, and all that Sir Henry Harrison did was to give effect to that principle in the valuation of residential houses in Calcutta. The Hon'ble Dr. Asutosh Mukhopadhyaya said that it would be perfectly possible in the case of residential houses to apply the principle laid down for rented houses. He is perfectly correct, and I have all along felt that it was so; but under the law, as it stood in Calcutta prior to 1888, that was not done. Had it been done, the law would possibly not have been altered at all. But the Assessment Benches misinterpreted and misapplied the law; and it was for this reason that a remedy had to be found. The Hon'ble Babu Surendranath Banerjee has quoted from a report of the Calcutta Corporation to show that the system of valuation of residential houses adopted in 1888 had given rise to difficulties. That report was the report on the administration of the Municipality in 1888-89, the first report which was written after the change in the law was made. Since that year no comment has been made, as far as I know, in any other report.

[1] See Lumley's *Law of Parochial Assessments*, 7th Ed., p. 19.

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"Now I will turn to the question of percentage, and on this point both the Hon'ble Members have relied on Mill, and one of them proposed that the percentage should be 3½ per cent., whereas the other proposed that it should be fixed at the highest rate of interest on Government securities at the time. Practically both come to the same thing. The only reason I can see for making such a proposal is the opinion expressed by Mill; but in the particular passage from Mill which has been quoted it will be seen that the particular percentage to be taken has nothing to do with his argument. It is absolutely in the nature of an *obiter dictum*. The principle for which he was contending was that buildings of the class in question should be valued with reference to the cost of construction, and that principle he justifies by entirely independent arguments. The particular rate of percentage has nothing to do with his argument, and he gives no reason for adopting that particular rate. It is not adopted in England, and was not recommended by Mr. Goschen's Committee. The truth is that the rate of interest on Government securities has nothing to do with the matter. The true principle is that capital invested in house property always in the long run expects to receive the same return, whether it be invested in rented houses or in residential houses; and if, for any reason, it does not get that return, it will not be invested at all. If you get a certain return by investing capital in houses built for letting purposes, we may safely assume that the capitalist who invests his money in the construction of a residential house expects the same return for his money. In other words, if we can ascertain the return on capital invested in rented houses, that return represents the percentage on cost of construction which should be taken for the purpose of determining the annual value of residential houses.

"In 1888 it was at first proposed to take a percentage of 6 per cent. It was found then that capital sunk in house property in Calcutta fetched from 6 to 7 per cent. The Council finally adopted a lower rate, partly to be on the safe side, and partly in order to mitigate the effect of the enhancement which it was known and intended would follow on the introduction of the new system. I have endeavoured to ascertain what is the present return upon house property in Calcutta, and I will read to the Council letters which I have received from Messrs. Mackintosh, Burn and Company and Messrs. Mackenzie, Lyall and Company, whom I have consulted.

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"Messrs. Mackintosh, Burn and Company write as follows:—

'A considerable amount of house property in the European quarters of the town has within the last few years, changed hands at prices based on a return of from 5 to 5½ per cent. interest, but we consider that purchasers at these rates have always in view the gradual increase in value of town property, and are satisfied with a return of 5 to 5½ per cent. for a few years if they see a fair prospect of increasing rents in the near future. We should say the present return expected from—

Tenanted or bustee land was	4½ to 5 per cent.
Residential property	5½ to 6 per cent.
Commercial or business premises	6 to 7 per cent.'

"And Messrs. Mackenzie, Lyall and Company say:—

'The usual return on house property in Calcutta at the present time is 5 per cent., as an average all round, though we believe in some parts of the native quarter 6 per cent. is obtainable.

'The rate in 1888 was 6 per cent., and no one looked for less, but 5 per cent. may now be counted upon as the correct return.'

"We may, therefore, take it that in the opinion of two European firms of the highest standing, who have great experience in this class of work, a percentage of 5 per cent. is not excessive now. I will only add that, if the percentage were reduced from 5 per cent. to 3½ per cent., assuming that the municipal taxes are levied at 20 per cent. on the annual valuation, the resulting loss to the municipal revenues would be no less than Rs. 2,70,000 per annum. If anything had been said as to 5 per cent. being an exorbitant rate, I should have drawn attention to the saving clause in the proviso (*iv*) in the same section; and I have a list of cases showing the manner in which that saving clause has been worked in the past to prevent any injustice or hardship. But neither of the Hon'ble Members who have moved amendments on this section have referred to that point, and, therefore, I shall not trouble the Council with any remarks on it.

"The Hon'ble Babu Surendranath Banerjee quoted a passage from a note by Sir Henry Harrison, in which it was said that if, after the valuation of the whole town was completed, it should be found that there were still complaints that this valuation was excessive, then it would be right to appoint a Committee of Engineers and Surveyors to test the valuations. That proposal was endorsed by the Government of Sir Steuart Bayley; and, although I have not had an opportunity of taking Your Honour's orders on the subject, I will

take the responsibility of saying that even now, if complaints are received that the assessment of residential houses is too high as compared with that of rented houses, Your Honour's Government will be prepared to institute such an enquiry. But I must clearly explain that, if it should turn out that the measures adopted in 1888 are insufficient, and that there is still under-valuation and under-assessment in respect of residential houses, it will be the duty of the Government to give effect to the recommendations of the Committee, even if those recommendations are in the opposite direction to what the Hon'ble Babu Surendranath Banerjee anticipates.

"There is one other matter included in the amendments of the Hon'ble Babu Surendranath Banerjee, although he did not say a word about it in his speech, namely, that the words 'and less ten per cent. for the cost of repairs' be inserted after the word 'any' in line 8 of clause (*b*) of section 148A (*now* 151). Possibly the Hon'ble Member has ascertained that this amendment is based on a misapprehension. I assure the Hon'ble Member that it is so, for he is comparing gross rental with net rent. In the case of rented houses, you deduct 10 per cent. from the gross rental in order to arrive at the net rent. This deduction corresponds to the deduction which is made in England of tithe, commutation charges, insurance, repairs, &c. But in the case of residential houses, when we take a certain percentage on the cost of construction we arrive not at the gross rental, but at the net rent, and there is, therefore, no necessity for making any deduction. To make a reduction of 10 per cent. as proposed by the Hon'ble Member would cost the Corporation not less than Rs. 45,000. Moreover, if the percentage were reduced from 5 to 3½ per cent., the annual valuation would be reduced by 30 per cent.; and, if we take it that the consolidated rate is payable at 20 per cent., the loss would be no less than Rs. 2,70,000.

"I have nothing further to add except that the principle embodied in the Act of 1888 has stood the test of experience. It has been most carefully worked out and considered on three separate occasions, and I am firmly convinced that the Council will be making the greatest possible mistake if they make any alteration in it now."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I have a few observations to make in reference to this section of the Bill. The question is whether there is any necessity for a distinction between the two classes of buildings for the purpose of ascertaining the annual value. It has been observed by the Hon'ble

Member in charge of the Bill that this question was thoroughly discussed in 1888 when the principle was adopted. If, however, the working of the Act of 1888 shows that there is a necessity for a change in the method of valuation of one of the two classes of cases, I think that change ought to be introduced. Because this question was discussed upwards of ten years ago and certain principles were adopted, that is no reason why we should adhere to those principles. Modifications of the law are made every day. With regard to one class of houses the existence of a very strong and peculiar feeling among the Hindus has been mentioned, and no doubt Hindus have a peculiar attachment for their dwelling-houses. They don't like the idea of not having a house of their own, but I don't see why that idea should prevent the application of the ordinary method of valuation of those houses. A hypothetical tenant may be found in order to assess a house at its letting value, its letting capacity, and then it would be let for a certain sum which would represent the annual value. If certain persons will not let their houses to any one but themselves, the question is what should be the actual amount payable for their occupation of the house. The Hon'ble Member in charge mentioned that there are about 12,000 such houses in Calcutta. Among these there may be certain palatial residences which cannot be let, which would not find suitable tenants; but the rest of the houses, a very large class, can very easily be let, and therefore their letting capacity can very easily be ascertained. I will mention one fact which will show the obvious injustice being done to the owners of this class of houses. It must be admitted that the value of houses varies according to the localities in which they are situated, and it must be admitted on principle that the value of a building depreciates or appreciates according to the value of the site upon which it stands. A building standing on 5 cottahs of land in the added area and a building on 5 cottahs of land in Harrison Road have very different values. The value of the site in one case may be at the rate of Rs. 200 a cottah; in the other, it might possibly be Rs. 10,000 a cottah. I am told that in one instance a site was valued at Rs. 60,000 a cottah. The value of a building appreciates according to the value of the site on which it stands. A building in Burra Bazar standing on 5 cottahs of land constructed at a cost of Rs. 25,000 will probably be sold for Rs. 50,000, and may bring in a return of from 6 to 9 per cent.; whereas, with regard to a building on the other side of the town constructed at a similar cost, the value would be much less than Rs. 50,000 and the return would be 2 or 3 per cent. A uniform rate of valuation will, I submit, bring

about great injustice. If this clause (*b*) of section 148A (*now* 151) is at all to be retained, and the amendment which has been proposed is rejected, I venture to submit that, to do justice to the owners of houses and grounds, there ought to be a sliding scale. Both the Hon'ble Babu Surendranath Banerjee and the Hon'ble Member in charge of the Bill have referred to the loss which will result to the municipality if the present principle of valuation of residential houses is reversed. I myself do not think there will be any loss, and I also venture to submit that there will be no practical difficulty in the valuation of these houses in the same way as in the case of rented houses. The value of the land according to its situation can be easily ascertained, and there will be no practical difficulty in determining the value of the building as well. The Hon'ble Member in charge of the Bill fortified himself with two letters giving the opinion of two respectable firms of considerable reputation that the return derived from house property in Calcutta varied from 5 to 6 per cent. upon the capital invested. That may be very true, but all the Members of the Council may not be prepared to accept that as the correct valuation. It may be true with regard to buildings within their own particular knowledge, but it may not be true with regard to other buildings."

The Hon'ble BABU JATRA MOHAN SEN said:—"I wish to add one observations. It cannot be denied that the owners of residential houses live in what is known as the native quarter of the town, and that larger amounts are spent in the construction of residential houses than on houses built for letting purposes, and a very fair income is derived from the capital sunk on houses of the latter class. It may be very injudicious to spend greater sums upon houses built for residential purposes in quarters of the town where you cannot get a proper return, but the fact remains that a proper return on the capital invested cannot be got in such cases; and, that being so, I submit that the return cannot be so high as 5 per cent. as the the Hon'ble Member in charge of the Bill maintains. If clause (*b*) of section 148A (*now* 151) is allowed to remain, I think the amendment proposed by the Hon'ble Dr. Asutosh Mukhopadhyaya that the return should be calculated at the rate of interest prevailing in respect of Government securities, should be accepted, and that instead of 5 per cent. it ought to be 3½ per cent."

The Hon'ble MR. BUCKLEY said:—"There is one practical point which bear strongly on this question. The Hon'ble Babu Surendranath Banerjee observed

that this clause (*b*) of section 148A (*now* 151), which stands in the Act of 1888 as well as in the Bill, operates as a grievous burden upon the middle class of house-occupiers, and he admits that the result of what he proposes will be a considerable reduction in the municipal revenues. For my part, I must say I do not understand how this is brought about. It seems to me that the result will be just the reverse; and, if the retention of clause (*b*) serves to give uniformity of valuation, the result of its omission will be that the owners of residential houses will have higher assessments made against them now than takes place under this provision of the law. The matter entirely turns on the cost of repairs. Rent is mainly made up of two things; first, the interest on the capital expended in constructing the building; and, secondly, the cost of keeping it in repair. Clause (*a*) of section 148A (*now* 151) seems to assume that 10 per cent. on the assessment will always cover the cost of repairs; but that is by no means the case according to my experience. The Government have houses valued at about ten lakhs of rupees, which are let mainly to Government officers; and, as a matter of fact, the cost of repairs of these houses varies considerably, in some years the cost amounting to $3\frac{1}{4}$ per cent. and in some years $4\frac{1}{2}$ per cent. on the capital cost of the buildings. That figure includes the repair of a number of hospitals and other large buildings, and is, therefore, too high for the repair of the average house property in Calcutta. The cost of repairs of private houses in Calcutta should not be more than 2 or $2\frac{1}{2}$ per cent. on the capital cost of the buildings. Take the case of a man who owns a house which he lets; he spends Rs. 2,000 in purchasing the land and Rs. 10,000 in building the house; according to the Hon'ble Member in charge of the Bill, he expects to get a return of 5 per cent. on his capital; so that, as regards the house alone, excluding the land, he has to receive a net return of Rs. 500. The repairs of the house will cost him Rs. 200 a year; he must let it, therefore, for Rs. 700; and the assessment, after the 10 per cent. allowed by the law is made, will be Rs. 630. Now, apply the same calculation to a residential house under clause (*b*): the house is built at the same cost of Rs. 10,000: the assessment will be 5 per cent. on that sum, or Rs. 500 only; so the occupier of the residential house will pay less rates to the Municipality than the occupier of the other house which is let by the owner. The long and short of all this is that a 10 per cent. allowance on the assessment for repairs is really too low, and a man who occupies his own house gets a very considerable advantage from that fact if interest, in both cases, is taken at the same figure. If the assessment on residential houses is really honestly made

on the same principle as in the case of other houses, the effect will be very much against the argument of the Hon'ble Babu Surendranath Banerjee."

The Hon'ble MR. OLDHAM said:—"A point which has not been answered is that which was suddenly suggested by the Hon'ble Babu Boikanta Nath Sen, that for a 5 per cent. rate of assessment should be substituted a sliding scale. That proposal has not been made the subject of any amendment. But it is obvious that a 5 per cent. rate is an average rate. On reading the discussions which took place on Sir Henry Harrison's proposals on this subject, with reference to the value of dwellings in different parts of Calcutta, I find that his general finding on the whole subject was that though the value of land is different in different parts of the town, and there is a tendency to over-value the land, there is the same invariable under-valuing of residences everywhere, so that the results, so far as residential houses are concerned, come out the same. I don't know whether the Hon'ble Babu Surendranath Banerjee has really considered the state of things he referred to in his speech. If that state of things is considered, it will be found to give the complete answer to what he complains of. He never attempted to explain what the reason for it was, but at the same time he admitted that it is an object with every Hindu to acquire an ancestral house which he could leave to his descendants; and, as a very large proportion of the city is Hindu, the consequence is that residential houses constructed with this object form a proportion of about 40 per cent. of the whole number of dwelling-houses in Calcutta. Such a state of things, as far as we know, does not exist in any other part of the world, and the Hon'ble Member in charge of the Bill has fully discussed and given his reasons why the letting value of such houses cannot possibly be ascertained. Similarly, in this state of things, it is impossible to ascertain the true *market* value of these houses, because people only wish to buy them for the purpose of demolishing the houses and building new houses in their stead, and not of living in these houses. In considering what the *market* value of such houses is, we must remember that, when a residential house is built, there is no intention of its being either let or sold; but circumstances alter, and, if in any case there is a forced sale, it is bought by some other person only to demolish it and build another house instead. The land retains its value, but it is impossible to give the house its proper *market* value as a residence when it is only bought for the purpose of demolishing it."

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"We feel a considerable strain put upon us to carry on this discussion of a most important kind relating to a crucial point at this late hour of the day, and, if we are obliged to do so, I trust I may be permitted to say that we carry on the discussion under a protest. The matter ought not to be rushed through the final stage of a sitting of the Council which has already lasted from 11 A.M to 5 P.M. My hon'ble friend the Member in charge of the Bill has made the remark that we have been repeating the arguments which have been raised in this Council in 1888, and which have since been raised at public meetings in the Town Hall and elsewhere. I plead guilty to that charge; the subject is an old one; the arguments are hackneyed; we cannot possibly invent arguments which have no relation to a matter which has been so thoroughly threshed out. But the old arguments derive additional force when they are illustrated by facts which cannot be controverted. I listened with the utmost interest to the statement which was made on the part of the Government, but not a word did I hear in opposition to the statement I read out, and which showed that, with regard to the assessment of this particular class of houses in a particular locality, there have been increases to the tune of 200 per cent. Discreetly silent was the Hon'ble Member in charge of the Bill with regard to those assessments."

The Hon'ble MR. BAKER said:—"The total increase is about 22 per cent. in the area referred to."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Concrete cases relating to particular wards are more telling than a statement of the kind just made by the Hon'ble Member in charge of the Bill. My facts can easily be tested, and the statement which I have read out discloses the fact that in that particular locality the assessments have increased in some cases by 200 per cent. Does the Hon'ble Member dispute the position? I challenge him to do so."

The Hon'ble MR. BAKER:—"I do, certainly."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am amazed at the statement just made by the Hon'ble Member. A person who is paying Rs. 20 is called upon to pay Rs. 40; that is surely a grievance in the case of a middle class man. My hon'ble friend's reply is that Sir Henry Harrison went into the

figures, and found that the increase on the whole amounted to 22 per cent. Is that a reply to the facts which I have adduced? The truth is that there have been in many cases enhancements to the tune of 100 and 200 per cent., and probably more. There have been, in some cases at any rate, grievous hardships endured. I welcome the statement which has been made by the Hon'ble Member that the Government is prepared to carry out the promise made by Sir Steuart Bayley's Government, and that an enquiry will be made, because I feel confident of the strength of my cause. So heavy a burden has been imposed that I feel convinced that a Commission, consisting of thoroughly impartial men, will be forced to the conclusion that the principle of valuation introduced in 1888 for the assessment of residential houses has been attended in its practical operation with grave hardship; and I am prepared to accept the proposal subject to the condition which the Hon'ble Member wants to impose. I do not wish to suggest the smallest reflection upon any one in stating the facts that have come to my knowledge. The Hon'ble Member said that the Assessment Benches abused the powers under the law, and therefore the law of 1876 was changed and the present law was enacted. That was certainly one of the grounds alleged by Sir Henry Harrison for the introduction of the law of 1888. If that is the whole of the explanation, then I am entitled to claim at the hands of the Council a reversal of the judgment which the Council arrived at in regard to this particular matter in 1888. The appellate benches no longer exist. The power of hearing appeals from assessments has been transferred to the Small Cause Court, a perfectly independent tribunal; and, therefore, much of that which led to a modification of the law of 1876 has been removed, and I have therefore a right to claim that the law be restored to its old footing.

"The Hon'ble Member has observed further that the percentage found by John Stuart Mill as the proper percentage of valuation was a mere *obiter dictum*, and that no weight ought to be attached to it. For my part I must say that I attach the greatest possible weight to anything which bears the authority of John Stuart Mill. I am sure he would write nothing under an impulse; he was the greatest thinker of the age, and weighed every word that he wrote. Therefore, I am not prepared to accept what the Hon'ble Member has said, namely, that the particular part of Mill's opinion which limits the percentage to be taken in such cases should be brushed aside as

unworthy of consideration. If we set it aside as an *obiter dictum*, why not discard the whole principle as an *obiter dictum?* What is there to distinguish one part of what Mill says from the other? The truth is that Mill's statement ought to be taken in its entirety. We should not be justified in taking one part of the statement, leaving out the other. Why should not the valuation of a building be taken at 3½ per cent. upon the estimated cost? I admit that it would involve loss to the Corporation, and I am unwilling that the Corporation should suffer in revenue; but the claims of justice are paramount. If in consequence of a change in the law one particular section of the community suffers a grievous burden, then it is the undoubted duty of this Council to take measures to remedy this grievance. The interests of the Corporation ought certainly to be safeguarded; but, if we feel that the state of the law involves something like injustice on a particular section of the community, it is incumbent upon us to remove it.

"I have not been able to follow the observations which fell from the Hon'ble Mr. Buckley, and my hon'ble friend Dr. Asutosh Mukhopadhyaya is very much in the same position as myself. The Hon'ble Mr. Buckley seemed to think that, if our figures are correct, they will operate against the interest of the very class in whose behalf we are pleading. We are the best judges of our own wants, and, if the acceptance of our amendments will prejudice the cause of the middle-class Hindu owners, we are prepared to accept the consequences, whatever they may be. But I am afraid the Hon'ble Member is labouring under a misapprehension. The annual value is taken at 5 per cent. on the sum obtained by adding the estimated present cost of the building to the cost of the land, less a reasonable sum for depreciation. I contend that the cost of repairs should also be deducted.

"In conclusion, I wish it to be distinctly understood that in any observations which I have found myself compelled to make, I have not intended to say anything which implies a personal reflection upon the Hon'ble Member in charge of the Bill. I should be sorry if anything which I have said should be interpreted in that light at all. It is my duty to defend my case. I may do so sometimes with some degree of warmth, but I am certain that Hon'ble Members of this Council will sympathise with a colleague who urges with warmth a case which he believes to be based on substantial justice."

The Hon'ble Mr. Baker explained that by the term "Commission of Enquiry" he did not mean an enquiry into the whole principle of assessment, but

an enquiry to test whether the assessments made under the Act of 1888 were excessive or the reverse.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I have no desire at this late hour to detain the Council with a lengthy reply, but I cannot agree with the Hon'ble Member in charge of the Bill that it is unnecessary to re-open the question. He expressed his regret in very unmistakeable terms that this question should have been re-opened at all. I am unable to share in that regret, because I am strongly convinced that the system is wrong from beginning to end. In the course of his able defence of the provisions of this Bill, the Hon'ble Member made an admission which, I submit, completely destroys his own case; and if he were arguing before a judicial assembly, he would have completely lost it in no time. With reference to my argument of a hypothetical tenant, he said that that was also his line of defence, and that there was no difficulty in applying that principle to the case of a princely mansion in the same manner as to the case of a house which is built for letting purposes in the ordinary way; and, in the plenitude of his argument, he went on to add that if the assessment benches in this city had not misunderstood and misapplied the law as it was understood and applied in England, there would have been no necessity for enacting the law of 1888. If that is so, I submit I am entitled to a reversal of the law of 1888. The law in England has now been finally set at rest by the authoritative decision of the House of Lords. If so, what is the use of importing into our law a principle which does not find a place in the law of England, which is not recognized elsewhere in India, and which is a unique feature of our Municipal Act?

"Then it was said, I think by the Hon'ble Mr. Buckley, that you cannot take the measure of the rental to be paid by a hypothetical tenant as the basis of valuation in respect of buildings not fit for purposes of tenancy, not built with the intention of being let and not ordinarily let, because you cannot ascertain what would be the rental payable by a hypothetical tenant. Be it so. Let us concede that the principle of a hypothetical tenant is based on a fiction. But let us not forget that in trying to avoid one fiction you take shelter under another, namely, the fiction on which the principle of the Bill is based, that, when a man invests capital in building a house as his own residence, he expects that he will derive at least as much profit and enjoyment as will be equivalent in money to a certain rate of interest on the capital sunk. Has this statement any foundation in fact?

A man builds a house and lavishly decorates it. Does he think he will actually get from it benefits which will be equivalent to the interest upon the sum he expends? Take, for instance, a hospital built by the Government: they spend five lakhs in building it. Do the Government calculate that the benefit to be derived from that building will be equivalent to the interest derived from a similar sum invested in Government securities? Further, I ask, again, where do you get the arbitrary rate of five per cent.? Why do you pile fiction upon fiction? I repeat with great confidence that the whole principle of this provision of the Bill is based on fictions which have no foundation whatever in fact."

The Hon'ble BABU SURENDRANATH BANERJEE's motion that for clauses (*a*) and (*b*) of section 148A (*now* 151), the following be substituted, namely:—

"The estimated gross annual rent at which any building (including a hut or shed) or land liable to the consolidated rate under this Act might reasonably be expected to let from year to year shall be deemed to be the annual value of such building or land:"

and that the words "under clause (*a*)" in proviso (*ii*) to section 148A (*now* 151), and the whole of provisos (*i*), (*iii*) and (*iv*) to the same section, be omitted, being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjee, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

The Hon'ble BABU SURENDRANATH BANERJEE's motion that the words "three-and-a-half" be substituted for the word "five" in line 4 of clause (*b*) of section 148A (*now* 151), and that the words "and less ten *per cent.* for the cost of repairs" be inserted after the word "any" in line 8 of clause (*b*) of section 148A (*now* 151), was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion that in section 148A (*now* 151), clause (*a*), the words "erected for letting purposes or ordinarily let" be omitted, being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion that clause (*b*) of section 148A (*now* 151), be omitted, was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion that in section 148A (*now* 151), clause (*b*), for the words "deemed to be five *per cent.*," the words "the amount derivable as interest, calculated according to the highest rate of interest payable on Government securities," be substituted, was also put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion that in section 148A (*now* 151), proviso (*iii*), for "of five *per cent.*" be substituted "according to the rate stated in clause (*b*)," was also put and lost.

The Council was then adjourned to Tuesday, the 19th September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Assistant Secy. to the Govt. of Bengal,
Legislative Dept.

Reg. No. 7820—900—17.2.1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Tuesday, the 19th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

THE BENGAL CIVIL COURTS AMINS BILL.

The Hon'ble MR. BOLTON said:—"It was decided in Council on the 16th September, 1899, that the Bill to repeal the Civil Courts Amins Act in Bengal should be taken into consideration to-day. I am not aware whether any Hon'ble Member wishes to offer any remarks upon the Bill."

[*Raja Ranajit Sinha, Bahadur, of Nashipur; Babu Jatra Mohan Sen.*]

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I beg to support this motion. I am sure that this Bill when passed into law will be a very useful measure, and that it will remove a long-felt want of the public. On the occasion of the discussion of the Financial Statement in April last, I had the honour to draw the attention of the Government that in the matter of boundary disputes the Civil Court had generally to depend much on the reports of their amins, and so the parties to a suit have to suffer at the hands of the Civil Court amins, who do not generally bear a good reputation. I have now to thank the Hon'ble the Chief Secretary to Government for having taken up the matter in right earnest and so soon supplying what I believe will provide a satisfactory solution of the matter. The announcement that he made the other day that the services of the junior members of the Bar would generally be utilised for the purpose of making local investigations has given universal satisfaction to every section of the community. I have only one further suggestion to make in this respect, that if the pleaders who are employed for this purpose could give satisfaction both to the Courts and the public, then I think their claim to be appointed as Munsifs as vacancies occurred should be favourably considered; and in that case it would operate as an incentive to strict honesty and fairness towards both parties. The other day the Hon'ble Babu Boikanta Nath Sen, I am told, made similar suggestions in regard to this matter; and I understand he was told by the Hon'ble Member in charge of the Bill that pleaders whose names were enrolled for appointment as Munsifs would generally be employed for these purposes. But I presume there may be some difficulty in carrying out this intention in some cases; for it may happen that some of the pleaders whose names are so enrolled may not have a practical knowledge of surveying; and, secondly, I believe there is a rule to the effect that pleaders who fail to get an appointment as a Munsif within the age of thirty years are ineligible for such appointment; therefore, it is probable that such pleaders will not be able to gain sufficient experience in that short time, and names of many experienced men will be discarded from the list of registered candidates on the ground of over age."

The Hon'ble BABU JATRA MOHAN SEN said:—"I am also in favour of this Bill, and I think that, in order to give young pleaders facilities to acquire a practical knowledge of surveying to fit them to undertake these local investigations, they should be allowed to attend surveying classes in some college

or other simultaneously with their attendance at law lectures. On the other points connected with this measure suggestions have been offered by other Hon'ble Members of the Council with which I agree."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I consider this to be a wise and safe measure; because, in the first place, having regard to the condition and general circumstances of the province and the improvement which has already taken place in the mofussil Bar, it is but fair that the amins employed under the Act of 1856 should be dispensed with and a non-official agency employed to do the work which Civil Court amins have hitherto done. This Bill does not prevent the services of amins being utilised by District Judges, and therefore I say it is a very useful measure. It will not introduce a revolutionary change; it will be gradually introduced, and District Judges will be perfectly at liberty to employ the agency of members of the Bar when they see fit, but at the same time the services of the present amins will be utilised and they will not be deprived of their bread. As regards the practical portion of the Act, if it be the object of the Government to give immediate effect to it, then rules will have to be framed under section 302, Civil Procedure Code; and I would suggest that the service of a pleader as a commissioner under the Act in a certain number of cases should be considered a condition precedent to obtaining appointment as a Munsif. The Hon'ble Member in charge of the Bill suggested that members of the Bar already enrolled as candidates for Munsifships should get the commissions; but I think that practically that might give rise to some difficulty. Where registered candidates are available, *i.e.*, in those districts in which there are registered candidates for Munsifships, preference should be given to them; but where such candidates are not available,—and I know several districts where there are no such candidates registered and practising,—in those districts other junior members of the Bar should not be excluded. The next question is whether prospective examinations should be insisted upon in surveying. I submit that, having regard to the rule now in force in the Calcutta University, that drawing will form one of the branches for the Entrance examination, although it is an optional subject, prospective rules should be framed providing for examination in survey as a qualification necessary to get the commissions. At first, however, to give practical effect to this Act, I think a joint certificate by the District Judge and the Subordinate Judge, expressing their opinion as to the

qualification of a particular member of the Bar, ought to be considered sufficient. The members of the Bar who have the degree of Bachelor of Law have to pass examinations in pure and mixed mathematics, and it will be very easy for them to learn the practical work of surveying, and District and Subordinate Judges are quite competent to certify as to particular candidates having qualified themselves in the practical part of the work and being competent to carry out local investigations under commission. Certain observations have also been made by the Hon'ble Member in charge of the Bill as to the remuneration to be given for such commissions. I beg to submit that it is hardly necessary for the High Court to frame rules on this point, because, so far as I remember, section 397 of the Civil Procedure Code, if I mistake not, amply provides for the remuneration of such commissioners by the Civil Courts. Hard-and-fast rules sometimes produce dissatisfaction both to the commissioners and the suitors; commissioners sometimes consider themselves ill-paid; but, if the Civil Courts are allowed to exercise unfettered discretion, they will have regard to the amount and nature of the work and be able to fix the remuneration in a proper manner, either by way of payment of daily fees or in a lump sum. Therefore, I do not think the remuneration to be given to commissioners under this Act should be fixed by rules; but the Civil Courts should be left to fix the amount of remuneration to be paid as they are empowered to do under section 397 of the Civil Procedure Code. With these remarks, I give my entire support to this Bill."

The Hon'ble MR. HANDLEY said:—"As this is a subject in which I have taken great interest for many years past, and as a District Judge for the last ten years, I have reported in favour of some such Bill as this. I should have thought that for the present it is hardly necessary to discuss the rules which are to be framed under this Act; but, as some Hon'ble members have offered suggestions regarding the framing of the rules, I shall take the liberty of offering a few remarks upon the Bill. And first I say that the Hon'ble Members who have spoken have not noticed one branch of the subject. Not only have local investigations to be made in which a knowledge of surveying is necessary, but the local examination of accounts is often required, which is a very difficult branch of the work, and for which very few pleaders are qualified, for they have not had any training in accounts. Therefore, not only should pleaders who wish to have their names enrolled for employment under this new scheme have certificates

of qualification in surveying from some recognised college, but they should also have certificates of knowledge of accounts. Some Hon'ble Members have suggested that preference should be given to those pleaders who have had their names enrolled as candidates for Munsifships. I don't think this to be a very practical suggestion, for I believe very few pleaders have managed to get their names enrolled in the High Court, and it is a very difficult thing to do so, whereas the number of pleaders for whom employment could be found under this Bill will be very large. In Alipore some 15 or 20 pleaders are employed besides amins; so very heavy is the work. If only two or three pleaders are enrolled as candidates, how could the work go on? And there are the subdivisions of Barasat and Diamond Harbour, where there are no enrolled candidates at all. It is very rare indeed for a candidate to be enrolled from a Munsif's chauki. I would therefore by no means limit employment as Commissioners to pleaders who are enrolled as candidates for employment as Munsifs."

The Hon'ble MR. BOLTON said:—"I desire to express the gratification of the Government at the approval with which the Bill has been received by the Hon'ble Members. On its introduction the Hon'ble Babu Boikanta Nath Sen offered suggestions which I promised would be fully taken into consideration, and I can only repeat that, when rules to give effect to the system introduced by the Act are framed, the suggestions which were made by the Hon'ble Member and have now been made by other Hon'ble Members will not be forgotten. With regard to the making of the rules, the High Court must be consulted, and no definite opinion can now be expressed as to the shape which those rules will take; but in dealing with the case the remarks which have been made in Council will be considered. There is one remark made by me when introducing the Bill to which some exception has been taken. I observed that it would be preferable that the commissioners appointed under section 392 of the Civil Procedure Code should be selected from the candidates whose names have been enrolled for appointment as Munsifs. The Hon'ble Babu Boikanta Nath Sen has pointed out, what subsequently occurred to myself, that this may not be practicable in some districts, because such candidates are not found in every district. The suggestion that success in carrying out these enquiries should give a claim to enrolment as candidates for Munsifships appeared to me open to the objection that preference might, in that case, be shown by some Courts to particular pleaders whom they wish to see enrolled. A rule to that effect

should not, therefore, be introduced. If junior pleaders carry out these enquiries successfully, they will establish a special claim to enrolment as candidates for the Subordinate Judicial Service which the High Court will doubtless recognize."

The Hon'ble MR. BOLTON then moved that the Bill be passed.

The motion was put and agreed to.

THE CALCUTTA MUNICIPAL BILL.

NEW SECTION.

The further consideration of the Hon'ble Mr. Baker's motion that the following section be inserted after section 133 (*now* 138),* namely:—

"133AA (*now* 139). The time for the repayment of any money borrowed under section 124 (*now* 129) or section 133 (*now* 138) for the purpose of discharging any previous loan shall not, except with the express sanction of the Government of India, extend beyond the unexpired portion of the period for which such previous loan was sanctioned,"

Time for repayment of money borrowed to discharge previous loan.

was resumed.

The Hon'ble MR. BAKER said:—"I don't know that I can add very much to what I said yesterday on this subject. This section has been pressed for by the Government of India. I should be glad if we could dispense with it, but after all I think it will make little difference. The Corporation can never contract any loan without the previous sanction of the Government of India, and, even if this section were not enacted, the Government of India would have power to impose whatever restrictions they please. It will therefore be in their power to limit the currency of any loan raised under this section. All that this section provides is that without such sanction this particular provision shall be enforced in every case."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have consulted some of my friends, and I have no objection to offer to this section."

The motion was put and agreed to.

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Dr. Asutosh Mukhopadhyaya.*]

SECTION 151.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148A (*now* 151), clause (*a*), line 5, after the word "building" the words "is actually let or" be added.

He said:—"I shall presently point out that this amendment is in perfect harmony with the principle which underlies the decision arrived at last evening upon four other amendments which I had the honour to move. My Hon'ble friends decided not to accept the principle of a hypothetical tenant in so far as buildings not erected for letting purposes and not ordinarily let are concerned. I now venture to suggest that in order to be consistent they ought to disregard the principle of a hypothetical tenant in so far as buildings erected for letting purposes or ordinarily let are concerned, when such buildings are actually in the occupation of a tenant. I can well anticipate that the Hon'ble Member in charge of the Bill will not be slow to point out that there is weighty authority against my proposition to be found in the English law. I am quite aware of that, and I would have been perfectly satisfied if the system which prevails in England had been introduced here in its entirety; but I do not appreciate the wisdom of adopting the principles of the English law when they suit the Hon'ble Member's purpose and ignoring them when they do not happen to suit his purpose. Section 148A (*now* 151) provides that the annual value of land and the annual value of any building erected for letting purposes or ordinarily let shall be deemed to be the gross annual rent at which the land or building might reasonably be expected to let from year to year. I lay stress on the phrases *reasonably be expected to let* and *from year to year*. These phrases show that there is no difference whether the building is vacant or in the actual occupation of a tenant. In both cases you value the building, not upon what the actual tenant pays, but what a hypothetical tenant might reasonably be expected to pay. *A* has a building which he lets for Rs. 10 a month; he lets it for three years; then comes the assessor and says: 'Although the actual rental is Rs. 10, I think it might reasonably be expected to let for Rs. 15 a month if let from year to year.' Now let us pause for a moment, and consider what elements of uncertainty you introduce here. There is no standard by which you can determine whether the valuation made by the assessor on this principle is reasonable or unreasonable, whether his expectation is just or unjust. Then, again, why do you take as your test the amount of rent which a prudent landlord might reasonably expect if the premises were let *from year*

to year? Why do you introduce this extraordinary principle? What is the ground of this preference for a yearly tenancy? You make your assessment on the basis of an annual tenancy, but you make the assessment last for a period of six years. Let me illustrate this by a concrete case. *A*, a landlord, lets out a building to *B* for a period of three years upon a rental of Rs. 50 a month; if he had to let it out for a shorter period, say for one year, he would have demanded a higher rent, say Rs. 60 a month, but he feels secure for three years and naturally accepts a lower figure. Let us not forget at the same time that the tenant is reasonably entitled to this indulgence, inasmuch as he undertakes a liability for three years. Then comes your municipal assessor, and says that, apart from all questions of what is reasonable or what is unreasonable and what may or may not be expected, the annual value must be calculated on the basis of a yearly tenancy, and therefore proceeds on the basis of Rs. 60 a month. Now, look at section 150 (*now* 172), which provides as follows:—

'If the annual value of any building or land, as determined under this Chapter, exceeds in any case the amount of rent payable to the owner, the owner may in such case recover from the person who pays him rent the difference between the sum assessed upon him as the owner's share of the consolidated rate and the sum at which he would have been assessed had the building or land been valued only at the amount of rent actually payable to him, and such difference shall be added to the rent, and shall be recoverable by the owner from the person liable for the payment of the rent.'

"If you apply this to the concrete case of Rs. 50 as the rent of the building for three years and Rs. 60 as the rental for only one year, you assess the rate on Rs. 60, and the tenant is made liable not only for his half-share of the rate on the basis of Rs. 60, but is also liable to the owner for the whole rate calculated on the difference between the sum of Rs. 50 and Rs. 60, inasmuch as Rs. 60 is the sum for which the building is reasonably expected to let from year to year. Although the building is let for Rs. 50, the tenant has to pay his own share of the rate on Rs. 60, and also the excess rate, to the owner. The burden, therefore, unfairly enough, falls wholly upon the unfortunate tenant; and although in consideration of the fact that he has undertaken a burden for a long term, has made the landlord secure in the enjoyment of the fruits of the property for such term, and has thus rightfully obtained the property upon a reduced rental, he has to pay the Municipality *rates*, as if he had taken a lease only for a year. Let us not again overlook the fact that this arrangement between the lessor and the lessee in the case of a tenancy for a long period is not without its benefit to the Corporation, *e.g.*, if *A* lets out his

property to *B* only for a year, he may find himself at the end of the tenancy without a tenant at all, which is by no means an uncommon occurrence, and if the premises remain vacant for any period, the Corporation loses the occupier's share of the consolidated rate. Then, again, one of the considerations for the reduction of the rent might have been the payment of a handsome bonus to the landlord, but, although the landlord thus retains the advantage of the bonus, you hold the unfortunate tenant under section 150 liable for the whole of the rates calculated upon the difference between the actual and the hypothetical rents. Therefore, if we are to be consistent, if we disregard the principle of a hypothetical tenant in the case of a building not erected for letting purposes, and not ordinarily let, let us go further, and in the case in which a building or land is in the actual occupation of a tenant, let us take the rent paid by him as the basis of assessment. If a building or land has not been let out, you might take the valuation on the rental of a hypothetical tenant. In either case there ought not to be any room for speculation or discussion as to what is reasonable or unreasonable.

"It may, no doubt, be said that it is not always fair to take the actual rental as the test, because, from a variety of causes, the rent paid in coin may not represent *all* that the owner receives as value for his property, or it may even sometimes be in *excess* of the actual letting value, and include considerations which are not rateable. But it is undeniable that, in our desire to secure a common standard of value by reference to a hypothetical tenant, we introduce an unknown element which it is extremely difficult to determine in practice. To summarise the attributes of the hypothetical tenant, he is a mere lifeless automaton, free from all sentiment, a somewhat imaginary person, who wants similar premises in a similar position for a similar purpose; he is assumed to have ordinary judgment and caution, to have the necessary skill and capital, and to occupy the same position in life as the actual tenant. Under these conditions he will give only a reasonable rent; his competition, however, with the actual tenant can hardly ever have the effect of reducing the actual rental, for the very necessities of the position assume that the actual tenant will offer the highest price his judgment and caution tell him he can afford, with a view to secure the premises. As an invariable result, therefore, the actual tenant suffers in competition with the hypothetical tenant, and what has been not inappropriately described by an eminent English Judge as the principle of 'the higgling of the market' always results in loss suffered by the actual tenant.

"On all these grounds, therefore, I would ask the Council to do away with the system which leads to so much uncertainty and injustice."

The Hon'ble MR. BAKER said:—"I don't propose to discuss this question as a matter of law, because I am not qualified to do so; but I shall show with less difficulty than I anticipated that this amendment is certainly one which ought not to be accepted. The Hon'ble Mover of the amendment began by saying that yesterday we rejected the principle of a hypothetical tenant in the case of residential houses. That statement I listened to with surprise, as I understood that the decision of the Council yesterday affirmed the principle of assuming a hypothetical tenant in the case of residential houses occupied by their owners. There was nothing in the debate in the Council yesterday to show that the principle of the hypothetical tenant is to be rejected. The amendment now before the Council is to insert the words 'is actually let or' after the word 'building' in line 5 of clause (*a*) of section 148A (*now* 151). There are several reasons for not accepting this amendment. In the first place, the words which the Hon'ble Member proposes to insert are not to be found in the English Act, which is the basis of the law of rating in this country. It is a most difficult and intricate subject, and I think that the mere fact that the English law does not contain these words is a strong reason for not introducing them here. The Hon'ble Member wishes it to be laid down that when a building is actually let the actual rent paid is to be the measure of the annual value of such building. If that is the Hon'ble Member's intention, then I ask the Council not to accept it: it is a most dangerous principle. We wish to have power to go behind the terms of a lease if it is necessary to do so, and the insertion of these words will tend to make it difficult to do so. Then I am not quite sure whether the intention of the Hon'ble Member does not conflict with the principle of *communibus annis* well known in the English law. Suppose a house is let from year to year at a rental of Rs. 60, and in the third year it falls vacant. The intention, as I understand the principle of *communibus annis*, is not to assume that in the third year the house has no value at all, but that the average rental shall be taken all through. But putting that aside—and I lay no stress on it, because I am not a lawyer—there is one serious reason why this principle cannot be accepted, namely, that it will immediately open the door to fraudulent leases. *Benami* leases are very common here already. If the assessor cannot go behind a lease which is put forward, it will open a door at once to the execution of fraudulent leases. For these reasons I submit that this amendment is not in accordance with the English law, and ought not to be accepted."

[*Babu Boikanta Nath Sen; Mr. Handley; Mr. Oldham.*]

The Hon'ble BABU BOIKANTA NATH SEN said:—"I think the annual rent at which land or building is let, or at which it might be expected to let, will be exactly the same if there is no fraud or collusion. The provision in clause (*a*) of section 148A (*now* 151) is a safeguard against dishonest proceedings. But, if the alternative proposed in this amendment is adopted, it will open a door to fraud and collusion. It will give rise to a lot of *benami* transactions, and instances are not wanting which illustrate such fraudulent transactions."

The Hon'ble MR. HANDLEY said:—"I wish to endorse the objections which have been raised to this amendment by the Hon'ble Member in charge of the Bill, and I agree with the Hon'ble Babu Boikanta Nath Sen that the introduction of the words proposed will open a door to fraudulent transactions, and that might be the case not only where a lease has been actually executed, but even in cases where there is no lease, as is the case of most tenancies in Calcutta. What would be easier than to put down a rental of Rs. 5 a month payable by a bustee tenant where he actually pays Rs. 10. Is there any possible way of proving the existence of a fraud of that kind? The other point is where a large premium is paid by the tenant, and as a consequence a small rent. The Hon'ble Mover of the amendment draws attention to the hardship suffered by a tenant who has to pay rates on a higher letting value where he had discounted that letting value by paying a higher premium. How does he propose to meet that difficulty? I know many cases of this kind, and will only refer to one or two by way of illustration. In the Bhoykolas estate within my own experience the present owners have let their interest in a lot or holding at a high premium and a nominal or pepper-corn rent. The annual rent in the case of religious *muths* or *debatter* properties may be only Rs. 2 or Rs. 3, the assessment upon which would come to something absurd; whereas the fine or premium which is paid may be very large. This is a device which is well known to the Hindu members of this Council, and in such cases, if there is no other method of valuation than the actual rent paid, the Municipality will be a great loser."

The Hon'ble MR. OLDHAM said:—"I should like to support the Hon'ble Member in charge of the Bill in his recollection of the result of the discussion which took place yesterday on the question of the principle of a hypothetical tenant. The Hon'ble Mover of the amendment said that the Council had discarded the principle of the hypothetical tenant; but, so far from discarding it, when I first heard the exposition of the law as it has now been settled in

England, which was so lucidly given yesterday by the Hon'ble Member who represents the University, it seemed to me that it was the very solution which had been sought for, for so many years, to meet the cases of Hindu owners of their residences in this town. This explanation is of great importance, for I myself have heard Babu Kally Nath Mitter assert three times at public meetings that, so far from the rates assessed upon the owners of residential houses being 19½ per cent., they amounted to something like 38 or 40 *per cent.* I would particularly commend to my hon'ble friend, Babu Surendranath Banerjee, the way I would put the case for the information of his friends who feel so aggrieved, and if I am wrong I trust the Hon'ble Dr. Asutosh Mukhopadhyaya will correct me. When the discussion of this question took place in this Council in 1888, the English law on the subject was quite unsettled. Sir Henry Harrison saw that there was something not equitable in the English law as applied to Hindu residences in Calcutta, and he tried to find a more perfect principle in the doctrines of Mill, and he then devised his own remedy. In 1893 the House of Lords settled the law by creating the legal fiction of the imaginary tenant, and Sir Henry Harrison meanwhile had settled it here by laying down the 5 per cent. rule, and thus finding the imaginary tenant. It appears to me that the results of the 5 per cent. rule are exactly the same as if the principle of an imaginary tenant is adopted, and I may say it is the opinion of that very careful and competent officer of the Corporation, our Vice-Chairman, that these provisions are proper provisions."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I should not like to give a silent vote on this question. I have considerable sympathy with this amendment of the Hon'ble Member, his object being to alleviate the burden of taxation which this section throws upon the people of Calcutta. But I fear there are serious practical difficulties in the way. I had a conversation on this matter with the Vice-Chairman of the Corporation, and I asked his opinion. He said the great objection to it is that it will open a door to fraudulent transactions, that people will enter into *benami* transactions, that they will get up leases which were not real transactions, and on the strength of such leases would obtain reductions of their just dues. The present practice is to insist on the production of a lease for three years. The Vice-Chairman is not satisfied with a lease for less than three years. I find that in this matter the law of 1876 is opposed to the amendment of my Hon'ble friend, and, as I said before, I pin my faith on the law of 1876.

[*Babu Surendranath Banerjee; Mr. Bolton; Dr. Asutosh Mukhopadhyaya.*]

"This view of the matter is supported by the Corporation. They pin their faith on the law of 1876, and I am sure that there will be serious practical difficulties in carrying out this amendment. It will be attended with abuse, it might lead to loss of revenue, and it will tend to demoralise the people. I therefore support that view."

The Hon'ble MR. BOLTON said:—"One point in the remarks of the Hon'ble Mover of the amendment has received no reply. He referred to the case of a three years' lease granted on payment of a premium. No tenant, however, enters into a lease for a house without taking into account the municipal taxes for which he accepts liability, and, whether a premium is paid or not, the contract with the landlord will cover that liability and no more."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I was surprised to hear that the Council has not discarded the principle of the hypothetical tenant, but has accepted it and has engrafted on it another fiction, namely, that the rent which such a tenant might be assumed to pay was 5 *per cent.* on the estimated present structural cost of the building *plus* the value of the land; so that it is the blending of two fictions. At any rate, that is not what I understood to be the drift of the discussion which took place yesterday. It has been pointed out by several Hon'ble Members that, if my amendment is accepted, it will open the way to fraud and might lead to difficulties. I thought the language of my amendment made ample provision for that difficulty, and that, at any rate, difficulties which might arise would not be more serious than those which now exist. My amendment says 'actually let.' I premise that there has been an actual letting. If the Chairman is convinced that there has not been an actual letting, but only a paper transaction, he would have to apply the principle of a hypothetical tenant. The section further says that the annual value shall be deemed to be the gross annual rent. I take it that that means the actual rent, not merely any nominal amount which may be stated in the lease. But, if the investigation of these questions leads to serious practical difficulties, I venture to think that they will not be half so serious as the difficulties to which the present mode of assessment inevitably leads us."

The motion was then put and lost.

[*Dr. Asutosh Mukhopadhyaya.*]

The last motion having been lost, Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name that in section 148A (*now* 151), proviso (*i*), line 3, after the word "land" the words "is actually let or" be inserted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 148A (*now* 151), clause (*b*), line 5, the word "present" be omitted.

He said:—"As the Hon'ble Member in charge of the Bill assures me that the Council has not abandoned the principle of the hypothetical tenant, I hope this amendment will be carried, inasmuch as it follows as a necessary corollary from that principle. When a man has invested capital in constructing a building for residential purposes, you assume that he is willing to pay to the contractor reasonable remuneration, arbitrarily fixed at 5 *per cent.* on the actual outlay. In other words, the contractor's theory is based on the assumption that, because a person has spent a certain sum upon the creation of a property and occupies it himself, such occupying owner must be presumed to be equally willing to pay adequate remuneration to a contractor for land and capital invested therein. Assuming this theory to be well founded, as the Council has already signified its adherence to it, I desire to point out that the introduction of the word 'present' makes the fiction even more mythical, and absolutely inconsistent with the facts. Let me illustrate the position by a concrete case. In 1890 *A* builds a house for Rs. 10,000 for residential purposes. In order to assess the rateable value you introduce the fiction that, because he has sunk so much capital, he must be presumed to be willing to pay 5 *per cent.* to a contractor who might have built it for him; upon this fiction you assess the annual value at Rs. 500. Suppose you have to re-assess it in 1900; you find that, on account of the rise in prices of the materials and the difficulty in procuring labour, the *present cost* of re-building the house would be fifteen thousand rupees, and you assess the annual value of the house at 5 *per cent.* upon the fifteen thousand rupees. Here you assume in fact the absolutely baseless fiction that the owner is able and willing to invest fifteen thousand rupees and to pay a reasonable remuneration to a contractor who might have built a house for him at an outlay of that sum. The owner protests that you cannot impute any such intention to him; he protests that he has not invested fifteen thousand rupees, is unwilling to invest so much, is possibly

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

unable to do so. It seems to me, Sir, that having introduced a fiction which has no foundation in fact, you are overlaying it with another fiction which is absolutely contradictory to the facts. The absurdity of the position is so manifest that it only requires to be stated to be rightly appreciated."

The Hon'ble MR. BAKER said:—"The Hon'ble mover of the amendment says that if he sunk Rs. 10,000 in building a house in 1890, then he may be assumed to have expected a return of 5 *per cent.* upon Rs. 10,000, and he thinks it unjust to assume that he expects to have a return of 5 *per cent.* on Rs. 15,000 in 1900. The answer to that is that he has actually got a return of 5 *per cent.* on Rs. 15,000, because the value of the building has increased. If the value of the building has increased, why should he not be assessed on the increased value? The effect of the amendment would be to fix the annual value of the house for all time once for all. Apart from the question of depreciation, the value would be determined once and for ever by the original cost of construction. That, I submit, conflicts with the English principle of *rebus sic stantibus.* The rule is this:—

'Property must be assessed at the value it possesses at the time the assessment is made; if it increases or diminishes in value from time to time, there will be a corresponding increase or diminution in the rate, for that must be always proportionate to the then existing value, and the value of the property in the past or the future is immaterial.'*

"It is quite clear that the proposal of the Hon'ble Member is in conflict with that principle. Moreover, the principle for which the Hon'ble Member contends will make it a matter of considerable difficulty to determine the annual value of a house built, it may be, half a century ago; whereas it would not be difficult for the assessor to form an estimate of the cost of erecting the building at the present moment. How could you ascertain the cost of erecting that building forty or fifty years ago? We don't know what the value of materials then was, nor what was the cost of labour. It would make it absolutely impossible to ascertain what sum should be taken as the value of the building."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I support the amendment. The Hon'ble Member in charge of the Bill says that, if this amendment is accepted, the annual value will be fixed once for all, and no increase

* *See* Rosher on the Principles of Rating.

whatever can take place. I respectfully beg to traverse that statement, and I think the Hon'ble Member will be convinced that he is wrong. The annual value of a house is the resultant of two factors. It depends upon the present estimated cost of erecting the building *plus* the value of the land. The value of land is steadily increasing; it always must increase in a progressive city. Therefore, if one factor is to remain constant, the other factor will be always increasing; and therefore there will not be that permanent fixture of the annual value which the Hon'ble Member says will result from the acceptance of this amendment. Then the Hon'ble Member says it will be difficult to estimate the cost of erecting a house built long ago. I think it is an equally difficult matter to estimate the present cost of the building, and we have a statement from the executive of the Municipality, and which I read to the Council yesterday, which entirely corroborates that view. I know that the effect of adopting this amendment will lead to a diminution in the receipts, and the question is whether we should be justified in legislating in such a way as to reduce the municipal revenues. I think that is the real crux of the whole matter; but it seems to me, as I said yesterday, that the operation of this principle of ascertaining the annual value of a building is very oppressive in respect of a particular class of the community, and that in justice to them we are bound to take the earliest opportunity to revise this provision of the Act of 1888. I do not think the loss of municipal revenue will be very great, for there will be a progressive increase derived from the steady increase in the value of the land which is taking place, though I admit the increase will not be so great as it would be if the law was allowed to remain as it is at present. Taking all these circumstances into consideration, I think the Council would be justified in accepting this amendment."

The Hon'ble MR. BOLTON said:—"I entirely support the Hon'ble Member in charge of the Bill in opposing this amendment. Objection has been taken to the Hon'ble Member's remark that the value of property would remain at a constant figure; but what the Hon'ble Member said was that the value of the building, and not of the land, would remain fixed under the amendment. That statement was correct. The Hon'ble Member has used a very forcible argument in pointing out that, if this amendment is passed, great difficulty would arise in estimating the value of a building which might have been constructed forty or fifty years ago. It is a further argument in favour of the

[*Mr. Bolton; Babu Boikanta Nath Sen; Mr. Handley.*]

present provision that, in claiming compensation for houses under the Land Acquisition Act, the owners themselves base their claims on the estimated *present* cost of erecting the buildings subject to deduction for depreciation. To the sum so calculated is added the 15 *per cent.* compensation for dispossession.

The Hon'ble BABU BOIKANTA NATH SEN said:—"If this amendment is accepted, the latter portion of the clause will be harmonious with the previous portion 'less a reasonable amount deducted on account of depreciation'—depreciation of what?—on the original cost of construction, and that will be harmonious with the elimination of the qualification introduced by the word 'present' in the clause."

The Hon'ble MR. HANDLEY said:—"I have one or two remarks to make upon this amendment. What ground has the Hon'ble Mover of the amendment to suppose that the value of a building has increased by 50 *per cent.* within the last eight or ten years? That seems to me to be far beyond the fact. The second point to which I wish to refer is, what means have we of ascertaining the original cost of a building? If a building was constructed, say, from twenty to forty years ago, how is the present owner of the building, who might be a son or other successor of the original owner, to know what was the original cost of the building? I have known land acquisition cases where the present proprietors have made a claim for a certain sum, and it has been found impossible to ascertain what was the original cost of the building, though in some instances we have been able to unearth from the records of the Municipal Office what the original claim was; and in such cases it has been found that the compensation claimed has been double the sum originally claimed. I fear that the acceptance of this amendment will open a door to all manner of frauds, such as the fabrication of bills in the name of some builder. On both these points, therefore, I think this motion is open to the same objection as the last amendment.

"As regards the statement of the Hon'ble Babu Surendranath Banerjee as to the increase in the value of land, it is true that the value of land is increasing, but at the same time the value of the building would be depreciating, and I doubt whether the increase in the value of the land will be greater than the loss by depreciation in value of the building. I doubt whether the value of the land and the building together will in any way be increased by the lapse of time. I think the value of the building will depreciate more than the increase in the value of the land."

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER said:—"I desire to explain, with reference to what has been said by the Hon'ble Babu Surendranath Banerjee, that, when I said that the annual value would be fixed once for all by the operation of this amendment, I was referring to the building, not to the land. It is quite clear that any rise in the value of the land will affect the value of the house and land taken together; but I was referring to the building itself. If you are to determine the value of the building by taking five *per cent.* on the original cost, obviously it will be fixed once and for ever. There will be neither a rise nor a fall."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I thought the Hon'ble Member was referring to the whole cost of the building and the land. I withdraw my remark."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I was not surprised to hear the Hon'ble Member in charge of the Bill quoting the English law on this subject; for when my hon'ble friend is driven to defend a position which is absolutely unsustainable, he seeks for authorities and precedents in every quarter. I repeat that I shall not have the smallest objection if my hon'ble friend will agree to give us the English system in its pristine purity; but he will never be able to induce me to accept it in an adulterated form. I confess I find it difficult to understand how a valuation of Rs. 15,000 can in any way be beneficial to the owner who spent Rs. 10,000 ten years previous to the date of the assessment; but I can well understand his misfortune in having to pay a municipal rate on Rs. 15,000, when he actually invested only Rs. 10,000 on the building of the house. The strongest argument of the Hon'ble Member is that, if you accept my amendment, you fix the valuation for all time to come. But you must not forget that you fix a profit-rate of five *per cent.* for all time to come. Whatever the state of the market may be, a hypothetical tenant is assumed to be always willing to pay five *per cent.* on the structural cost. You accepted that position when you rejected my motion that the annual value should be calculated according to the highest rate of interest payable on Government securities. If, then, you can assume a profit-rate of five *per cent.* for all time to come, there is no reason why you should not assess a building on the basis of the initial structural cost. As a serious practical difficulty, it has been asked how can you ascertain the actual structural cost of a building erected forty or fifty years ago? But, if you will

[*Dr. Asutosh Mukhopadhyaya.*]

consider the matter for a moment, you will see that the difficulty here is not greater than what you find in the system you propose to adopt. Take a building raised fifty years ago. What does the assessor do? He estimates the present cost of erecting the building, but this estimated amount must necessarily vary with a number of uncertain elements; for instance, a European architect will charge considerably more than a Native builder. Then, again, you have to deduct a reasonable amount on account of depreciation. Depreciation is a relative term, and must of necessity have reference to the condition of the building when it was originally built. You must compare the original and the present state of the building; so that, if you really give effect to the present law, you are bound to determine what the value of the building was when it was first erected."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 148A (*now* 151), clause (*b*), for the words "present cost of erecting the building, less a reasonable amount to be deducted on account of depreciation, if any," the words "market value of the building" be substituted.

He said:—"In moving the last amendment I explained the hypothesis upon which the contractor's theory is based, and the object of the present amendment is to bring the law into harmony with that principle. The whole basis of the principle is that, when a person has invested a certain amount of capital in a building, he must be presumed to be willing to forego the interest derivable from that amount by any other mode of investment. Now, consider a case in which a person, instead of building a house for himself, purchases one which he considers suitable for residential purposes. Assume that he pays ten thousand rupees for it, and assume for a moment that, if he had to build it himself, it would have cost him fifteen thousand rupees. Now comes your municipal assessor and says that he must be assessed at five *per cent.* upon fifteen thousand rupees. The owner protests that he has not invested fifteen thousand rupees, and that you cannot impute to him any intention to forego the interest derivable from fifteen thousand rupees. He says, and rightly says, that whatever intention, by the stretch of your imagination, you can impute to him in respect of the ten thousand rupees he has actually invested, you have no right to indulge in your fancy in respect of the five thousand

which he has not invested. He protests that this is not a legitimate assumption to make. This anomaly, at any rate, you will obviate, if you assume as the basis of your calculation the market value of the building, instead of the present cost of re-erecting it.

"But then, it is said, how can we apply the doctrine of market value to a thing for which there is no market; for it is assumed that there is no market for these residential buildings, which are not built to be let or sold. I challenge the correctness of this assumption, and absolutely deny its accuracy. The majority of the buildings used by the middle classes of the community in the city for purposes of residence frequently change hands, and, if you take statistics, you will find that, though there are thousands of people who live in their own houses, it is not correct to say that they live in houses which they have built for themselves. For these houses there is a market, and there cannot be the slightest difficulty in estimating their market value. There might, no doubt, be some few houses in the city—the residences of wealthy men—which have never changed hands and for which there is no market in the sense that if you were to put them up to auction you might not find a large number of competitors. But the difficulty of estimating the market value in these exceptional cases would not in the least approximate to the difficulty of ascertaining the amount of rent payable by a hypothetical tenant or the amount of reasonable deduction on account of depreciation. I submit, therefore, that the acceptance of the market value as the basis of our calculation will remove a good deal of speculation, and enable us to do away with the anomalies I have pointed out."

The Hon'ble MR. BAKER said:—"This same proposal was brought forward in 1888, and Sir Henry Harrison was at first disposed to accept it; but he was dissuaded from doing so by the representations which were made by Sir Charles Paul and Mr. Allen. Those two leaders of the legal profession expressed the opinion that the term 'market value' was fraught with far more embarrassment than the method of valuation proposed in the Bill, and Sir Henry Harrison and the Council considered they would be wise in allowing themselves to be guided by the opinion of their legal advisers. I think we had better follow that opinion on the present occasion. The hon'ble mover of the amendment has said that the adoption of his proposal would cause less difficulty than the assessment of a house according to the method laid down in the Bill by means of a percentage

on the estimated present cost of constructing the building. The great objection to this proposal is that it will bring back the whole of the difficulty which we were dealing with yesterday on the question of the assessment of residential houses in a different form. The difficulty of ascertaining the rent in these cases is only greater than the difficulty of ascertaining their market value, because these houses have really no market, or at most only a very restricted market. It was said in 1888, on the authority of Babu Nilmoney Mitter, an eminent Indian engineer, that even if such a house was sold immediately after it was built, when it was brand new, it would not fetch the amount of money which was expended in its construction. It was also stated in 1888 that there would practically be only two classes of cases in which houses of this kind would come into the market, and those two classes gave very different results. The first is where a building of this class is taken possession of under the operation of the Land Acquisition Act. There is great opposition to this on the part of the owner, and he does all in his power to raise the value of the property, and the compensation awarded in such cases is exceedingly high. On the other hand, when a house of this kind comes into the market owing to the bankruptcy of the owner or the disappearance of his family or any such misfortune, the price obtained is usually very low. It was estimated in 1888 that in such cases the difference between the market value under the Land Acquisition Act and the market value in the case of these forced sales is often as great as 50 *per cent.* It will therefore be exceedingly difficult to take the market value as the standard of value."

The Hon'ble MR. OLDHAM said:—"I wish briefly to explain that the only difference which exists between the hon'ble mover of the amendment and the Hon'ble Member in charge of the Bill and myself is as to a question of fact. But take even the Hon'ble Member's facts. He states with confidence that there are thousands of houses which have a market value. Still that leaves thousands of houses which have no market value."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I support this amendment. Yesterday I spoke on the lines of this amendment, and the Hon'ble Member in charge of the Bill said in reply that it would be fraught with difficulty. But is there not such a principle in the Land Acquisition Act, and is not the market value daily settled in land acquisition cases? Did my Hon'ble

friend the Legal Remembrancer, who was recently Judge of the 24-Parganas, find any difficulty in deciding such cases? There may be difficulties, but I cannot understand that there will be serious difficulties if the principle of the market value is accepted. The thing is done from day to day under the Land Acquisition Act."

The Hon'ble MR. OLDHAM said:—"We find immense difficulty in the Board of Revenue."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"That is because you proceed in the wrong way: if you proceed in the proper way, there will be little or no difficulty. There may be a restricted market as regards such spacious buildings as the houses erected by Babu Nundo Lal Bose and Maharaja Sir Jotendra Mohan Tagore; but I venture to assert within my personal knowledge that there is a wide and open market for the sale of small houses in Calcutta. They are constantly changing hands, and I don't think there is any difficulty in ascertaining the market value of such houses. But, as I said yesterday, I desire to place the question of the market value on other than legal grounds. I say it is but equitable that you should proceed on the basis of the market value. A man purchases a house for Rs. 10,000; that is the value he has paid for the house. The assessor comes next day and assesses the house at Rs. 15,000 in accordance with the principle laid down for the valuation of such houses. So that practically the owner has to pay rates not on the amount of money for which he purchased the house, but on the fictitious and imaginary valuation arrived at in accordance with this provision of the law. I wish to brush aside all considerations connected with the legal bearings of the case and put it on the high considerations of justice and equity. Is it fair, I ask, that a man who purchases a house for Rs. 10,000 should have to pay rates assessed on a valuation of Rs. 15,000. That is not right and equitable. It does not commend itself to my notions of justice and equity; and I feel sure it would not commend itself to the judgment of Hon'ble Members if it were divested of the difficulties which are believed to surround the subject. I wish the Council to decide this question on the broad principles of equity, and, if it is looked at from that point of view, I am confident Hon'ble Members will be in favour of the amendment."

[*Mr. Bolton; Babu Surendranath Banerjee; Mr. Oldham.*]

The Hon'ble MR. BOLTON said:—"The Hon'ble Member who has just spoken has mentioned the case of a man who purchases a house for Rs. 10,000 and is assessed at Rs. 15,000. There is the obvious remedy in such a case of an appeal to the Vice-Chairman, and from the decision of the Vice-Chairman an appeal may be lodged before the Small Cause Court—a perfectly independent tribunal. It is impossible to provide absolutely against error or unfairness in valuation, but the appellate authorities are there to redress injustice."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I wish to say, by way of a personal explanation, that I was glad to hear the announcement which the Hon'ble Member made regarding the appointment of a Commission of Enquiry, and, if the Vice-Chairman of the Corporation is examined before that Commission, I know what he will say. I know his views in this matter. I am also certain that he will say, having regard to the many cases which come before him and the inadequate information upon which he has to decide, that he is not able to do justice. The Hon'ble Member is aware that the Vice-Chairman wants to be allowed a horse allowance; he wants to go about and test the work of the amins. We have amins upon whom the Vice-Chairman is obliged to depend. A particular house was assessed in Ward No. 1. It was the ward of Babu Bhupendro Nath Bose. The assessment was doubled or trebled, but the most extraordinary part of the affair was that there was no such house, and that discovery was made subsequently. This is the way business is now done."

The Hon'ble MR. OLDHAM said:—"It so happened that I was discussing this very question with the Vice-Chairman four days ago, and the views I gathered from him were exactly the contrary to those which have been expressed by the Hon'ble Member who has just spoken, not as regards the particular house to which the Hon'ble Member has alluded, but as regards the statement that, if the Vice-Chairman was able to go about, the result would be different. The Vice-Chairman's opinion was that, if he was able to go about and examine these assessments, the results would be very considerable enhancements. Then, as regards the case of a house erected or purchased at a cost of Rs. 10,000, and valued for purposes of assessment at Rs. 15,000. Suppose a person got possession of a currency note of Rs. 100 for Rs. 50, would he be supposed to be the possessor of Rs. 50 or Rs. 100?"

[*Babu Boikanta Nath Sen; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU BOIKANTA NATH SEN said:—"I consider it obvious that injustice will be done if a rate of 5 *per cent.* be taken upon the valuation of a house made in the manner provided by this provision of the Bill, but such injustice will be obviated if the amendment to take a percentage upon the market value is adopted."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I find myself in a hopeless maze, from which I am unable to extricate myself. I was assured not long ago that we have adopted the doctrine of a hypothetical tenant. Relying upon this assurance, I endeavour fairly to carry out that doctrine to its legitimate conclusion; but, before I proceed an inch, I am stopped. My hon'ble friend, the Member in charge of the Bill, quoted the high authority of Sir Charles Paul and Mr. Allen; I can assure him that I entertain a very high opinion of the learning and ability of those gentlemen, and if their advice to the Government had been on a legal question, I would have respected the authority of their opinion. But this is not a legal matter. In their opinion, it is a more difficult matter to ascertain the market value of a building than to ascertain the cost of rebuilding it and making a reasonable allowance for depreciation. I respectfully join issue upon that point. As my hon'ble friend has pointed out, in cases decided under the Land Acquisition Act the market value of buildings has to be ascertained. When the whole question was reopened in 1894 in connection with that Act, a strenuous effort was made to do away with the principle of market value; but the supporters of the doctrine of market value made good their position in the Imperial Legislative Council and succeeded in keeping the existing provisions of the law intact. If District Judges in hearing land acquisition cases do not find much difficulty in ascertaining the market value of buildings, I cannot see why the municipal assessor should find greater difficulty. The Hon'ble Mr. Oldham says that, if there are thousands of houses for which there is a market value, there are also thousands of houses for which there is no market value; but in England, where the principle of market value is followed, there occur cases in which there is strictly no market value, and yet the Courts have found no difficulty in dealing with them; and I hope that, if my amendment is carried, there will be no difficulty in carrying out that principle here also."

[*Dr. Asutosh Mukhopadhyaya.*]

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 18.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble Dr. Asutosh Mukhopadhyaya also moved that in section 148A (*now* 151), after proviso (*iv*), the following be added:—

"(*v*) In calculating the value of land under this section, where such land is held by the owner as an estate or part of an estate subject to the payment of revenue to the Government, the amount of revenue so payable shall be deducted from the gross annual rent."

He said:—"I was in hopes that the minute relief which I sought by this amendment might escape the observation of the Hon'ble Member in charge of the Bill, but I regret to find that application for relief, however minute or inconsiderable, is bound to meet with opposition. The principle of this amendment eqmay very briefly explained. Under our municipal law, one-half of the consolidated rate is to be paid by the occupier and the other half by the owner. This term 'owner' does not necessarily include one single individual. It will include everybody above the occupier. As a matter of practice the owner's share is levied from the person who stands immediately above the actual occupier, and there is no unfairness in that, because it is only a matter of contribution as between himself and his superior landlord. It is a matter of contract between them; but, when this superior landlord happens to

be the Government, he cannot call on the Government to contribute, and therefore he cannot get any relief at all, but has to bear the whole burden. Let us, therefore, in all fairness exclude from the amount of gross rental the amount of revenue paid to the Government. I am assured by high authority that this will not materially affect the municipal revenues, because in most cases the amount of the Government revenue is so small that it will not afford any appreciable relief to any one. But, though this may be the case in the town of Calcutta proper, it will not be so in the added area, where there are some holdings for which the amount of revenue is considerable; and, if a deduction is made, some relief may be afforded. I feel sure that the Hon'ble Member in charge of the Bill will say that this is such a small matter that we may leave it alone; such a contention would be tenable if it was a matter which would seriously affect the municipal revenues; but, as it will afford some relief, though small, to occupiers, I hope the Hon'ble Member will accept the amendment."

The Hon'ble MR. BAKER said:—"It is quite true that this is a small matter. The total amount of the ground rent and revenue payable to the Government in Calcutta and the Suburbs is only Rs. 65,400. The whole of the soil in the town of Calcutta is formed of holdings, which pay ground rent to the Government of Bengal amounting to Rs. 18,400 a year; and, as regards the Suburbs, there is only one portion in which there is any revenue payable at all. I will read to the Council a letter from the Collector of the 24-Parganas, which states the facts. He says:—

'The added area of Calcutta consists, for revenue purposes, of two portions, *viz.*, (1) the area west of Tolly's Nala, comprising Alipore, Chetla, Kidderpore and a portion of Garden Reach, and (2) the tract east of Tolly's Nala and the Lower Circular Road, which comprises Bhawanipur, Ballygunge and Entally. The whole of the latter tract is in Panchannogram Government estate, but I cannot tell you what the revenue is, because Panchannogram includes also Cossipore-Chitpur and Maniktola Municipalities, as well as portions of South Dum-Dum and the South Suburban Municipality. The rent-rate of the holdings in Panchannogram varies from Re. 1 to Rs. 3 per bigha. The latter rate, or Rs. 9 per acre, is the usual rate. The average rate is, however, only Rs. 5 per acre, and applying this rate to the area of this tract, which I estimate to be 9½ square miles, the rental may be reckoned at Rs. 34,400.

'The portion of the added area west of Tolly's Nala is ordinary permanently-settled land belonging to private owners. The revenue rate of the permanently-settled estate in this district is about 8 annas a bigha. A considerable area is, however, included in Govern-

estate Saheban Bagicha, where the rent-rate is Rs. 3 per bigha. For the whole area of this tract, which may be 6¼ square miles, I estimate the revenue, at the rate of Rs. 3 per acre, at Rs. 12,500. For round figures the revenue and rental paid to Government in the added area may be estimated at Rs. 47,000. This does not include the rental of the Orphanganj market, which is about Rs. 60,000. I think that the amendment you write of will occasion practical difficulties. Strictly speaking, no *revenue* is paid for lands in the town of Calcutta, for in 1758 the East India Company obtained a *sanad* from the Nawab for the *lakhiraj* tenure of the villages comprising Calcutta, the revenue of these villages, amounting to Rs. 8,836, being remitted. The rents collected in Calcuttta are in fact *ground-rents*, and not revenue.

'Panchannogram is held under a similar tenure, *viz.*, a revenue-free or lakhiraj grant renewed by the Nawab Mir Jaffer in 1758. The holdings in this estate pay *rent*, and not revenue, and are liable to sale for arrears of rent as tenures under Act VII (B.C.) of 1868.

'The Government estate Saheban Bagicha consisted of country houses of Europeans originally. These formerly belonged to private estates, but the proprietors having represented to the Company, at some date before the decennial settlement, that they could not recover their rents, the Company remitted their revenue *pro tanto*, and undertook the collection of the rents of these lands. The holders are therefore tenants, and they pay *rent*, not revenue.'

"It is only in that part of the added area which forms a portion of the permanently-settled tract that any revenue is paid at all. Therefore, the first objection to this amendment is that it will exclude the greater part of the town from coming under its operation at all. People living in the metropolis of Calcutta and in the Suburbs who pay a sum which is not strictly revenue will get no relief, while other people living within permanently-settled estates will receive relief, and, as I have said before, the total amount is absolutely insignificant."

The Hon'ble BABU JATRA MOHAN SEN said:—"I agree with the Hon'ble Member in charge of the Bill that this amendment will give only very small relief to a few persons, but, if some slight alteration is made in the amendment, the object of the hon'ble mover might be met by omitting the words 'as an estate and part of an estate' and inserting the words 'or rent' after 'revenue'."

The Hon'ble MR. BAKER said:—"This is a substantial alteration which cannot be moved without notice, but I do not press the objection."

The Hon'ble MR. OLDHAM said:—"I do not understand the proposal made by my old Chittagong friend, the Hon'ble Babu Jatra Mohan Sen. Does

he understand that the Panchannogram estate on which Calcutta is built, is precisely in the same position as the Noabad estate in Chittagong with which he is so familiar? The effect of the amendment will be that where people pay rent to Government the rent is to be deducted; but where they pay rent to a zamindar no deduction is to be made."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"After the explanation given by the Hon'ble Member in charge of the Bill, I will not press the amendment."

The motion was then, by leave of the Council, withdrawn.

SECTION 152.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that proviso (*e*) to section 148B (*now* 152) be omitted.

He said:—"This proviso has somewhat puzzled me. I have not been able to make out what cases are intended to be included in it: I suggest that it be omitted."

The Hon'ble MR. BAKER said:—"I agree. There is nothing on record to show how this proviso was inserted, and the Assistant Secretary is not aware how it came in."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 148B, proviso (*g*) [*now* section 152, proviso (*e*)], line 12, after the word "force" be added "from the date of the application."

He said:—"I wish to have it made quite clear from what time the alteration is to take effect. My original idea was that the re-valuation should be enforced from the date of the depreciation. I have been in consultation with the Hon'ble Member in charge of the Bill, and he has pointed out that this would not be fair, for, if there was depreciation and the owner did not make any application, he could not very well blame the Municipality for not reducing the assessment. On the other hand, if he made an application and it was not disposed of for months, he ought not to be made to suffer; it would therefore be fair to put in these words."

[*Babu Surendranath Banerjee; Mr. Baker; the President; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Suppose the application is made in the middle of a quarter, there would be a difficulty. I was going to make a suggestion: it is that the new valuation should take effect 'from the quarter following the date of the application.' That is the present law in the mufassal. We could not allow the benefit of half the rate from the date of the application, because it would introduce complications into the accounts. If it is provided that the application is to be given effect to from the quarter subsequent to the date of the application, I think, Sir, that would do away with the complications which might otherwise arise."

The Hon'ble MR. BAKER said:—"I have no objection to that."

The Hon'ble THE PRESIDENT said:—"I should say 'from the beginning of the quarter following the date of the application'."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I accept that."

The motion was then put in the amended form and carried.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148B, proviso (*j*) [*now* section 152, proviso (*g*)], after the words "the Chairman may" be inserted "if he thinks fit," and that for the words "all the sharers" be substituted "any of the share-holders interested individually or collectively to the extent of one moiety or upwards."

He said:—"The section as I propose to amend it will read:—

'If, during the currency of any period mentioned in sub-section (*1*), the ownership of any building or land or portion thereof be subdivided into separate shares, the Chairman may, if he thinks fit, on the application of any of the shareholders interested individually or collectively to the extent of one moiety or upwards, apportion the assessment on such building, land or portion among such sharers according to the value of their respective shares; and such apportionment shall be in force, and the consolidated rate shall be levied according to it, until the expiration of the said period.'

"I confess, Sir, that this question is not free from difficulties, but I hope that by the insertion of the words 'if he thinks fit' after the word 'may' all practical difficulty will be removed. The section, as it stands, authorizes the Chairman to apportion the assessment of any building or land upon the application of all the shareholders. My amendment is to the effect that he should be

in a position to do so upon the application of any shareholders interested individually or collectively to the extent of one moiety or upwards, and my object is this: the case which the section contemplates is the case of all the shareholders being willing to have the rates divided amongst themselves. That is a contingency not very likely to happen. The question would ordinarily arise only when some of the owners are willing to pay the rates and the others are not willing to do so. Suppose there are two shareholders—one of them owns 14 annas and the other owns 2 annas; the 2 annas' shareholder is dishonest enough to think that he need not pay the rates; the 14 annas' shareholder has to pay the whole, and his only remedy is to seek relief by the tedious process of a contribution suit. In such a case as that, the 14 annas' shareholder should obviously have some speedy remedy. He owns a large share of the property, and his co-sharer confessedly is not willing to pay. In such a case, I venture to think, the 14 annas' shareholder ought to be in a position to make an application to the Chairman, and, if the Chairman thinks fit, he may apportion the rates. The practical difficulties to which I allude are two—first, it may be said that there may be a dispute as to the shares. I think that is quite possible. If so, there would be ample discretion in the Chairman to withhold his hands. I would here invite your attention to section 364 (*now* 365), where you will find a similar provision. The first clause of section 364 (*now* 365) is as follows:—

> '(*1*) When two or more adjoining plots of land are, by reason of their shape, situation or size, individually unsuitable for the construction of buildings in accordance with the provisions of this Act and the rules and bye-laws made hereunder, and the owners of such plots cannot agree to amalgamate and re-divide the plots in order to admit of the construction of buildings as aforesaid, the General Committee may, on the written request of the owners of not less than three-fourths of the area of such plots, take possession of the land and form it into suitable building sites.'

"You do not here provide that action can be taken only upon the representation of the entire body of owners. If another illustration is necessary, I may refer to the Partition Act of 1893, section 2, where also you will find a similar provision. I am ready to admit that, if it was made compulsory upon the Chairman to apportion the rates upon the application of some only of the co-sharers, practical difficulties might arise. He might be called upon to decide questions which ought properly in the first instance to be discussed in a Civil Court.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

"Then, in the second place, it might be urged that, if the application is made by some only of the shareholders or by the majority of them, the others might remain in complete ignorance of the proceedings. But, I take it, the Chairman would ordinarily decline to make any orders under this clause unless he had before him all the shareholders, or, at any rate, unless he was satisfied that due notice had been served upon all of them. I, therefore, venture to think that with the limitations proposed, the section as amended will be workable and can lead to no practical difficulties."

The Hon'ble MR. BAKER:—"This is a matter of some difficulty, but I have had an opportunity of discussing it with the hon'ble mover and the Chairman, and I think, with the addition of the words which have been proposed to-day, the section will be free from objection. I am therefore prepared to accept the amendment."

The motion was put and agreed to.

SECTION 161.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148L (*now* 161), sub-section (*2*), after the word "appears" be added "or of any person duly authorised on his behalf."

He said :—" Sub-section (*2*) of section 148L (*now* 161) reads as follows :—

'At the said time and place the Chairman shall hear the objection, in the presence of the objector if he appears, or may, for reasonable cause, adjourn the investigation.'

"I confess, Sir, that I was somewhat upset by the word 'presence.' Take, for instance, the case of an infant or of a *pardanashin* lady; surely it is not intended that the infant or *pardanashin* lady should be present before the Chairman. It would be quite enough if they were represented, not necessarily by a lawyer, but by any authorised agent. I feel sure it is not intended that they should appear in person."

The Hon'ble BABU SURENDRANATH BANERJEE said:—" The present practice is for the person to appear himself or by an authorised agent. So that there is absolutely no objection in accepting my friend's amendment."

The Hon'ble MR. BAKER said:—"The rule which the Select Committee followed was not to put in any words which would give a statutory right to appear by an authorised agent, but simply to leave it to the practice of the

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya; the President; Mr. Oldham.*]

Corporation or the General Committee. Is it worth while to make any change? I admit that these words in themselves are absolutely free from objection, but is it worth while to insert them in the Bill? The words are the same in the present law: 'at the said time and place the Chairman shall hear the objection in the presence of the objector if he appears, or may for reasonable cause adjourn the investigation.' How would it be to leave out those words 'in the presence of the objector if he appears'?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Suppose he was to dispose of the case in the absence of the objector?"

The Hon'ble MR. BAKER said:—"If the Hon'ble Member will accept that modification, I have no objection."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA then said:—"I would be quite satisfied with this amended form. My only objection was to the words 'in the presence of the objector,' which are absolutely misleading."

The Hon'ble THE PRESIDENT said:—"Then, instead of adding, the Hon'ble Member subtracts, and I understand the motion is that in section 148L (*now* 161), clause (2), the words 'in the presence of the objector if he appears' be omitted."

The Hon'ble MR. OLDHAM said:—"I would oppose that amendment. I do not like the appearance of the section with that omission. I should like to adhere to the existing law, that is, the law in section 136 of the present Act and in this Bill, and I would adhere to the present practice."

The Hon'ble THE PRESIDENT said:—"It is rather an important thing to have a clause in the section that it is expected that the objector shall be present and the disposal of the objection shall be in his presence."

The motion in the amended form was then put and lost.

SECTION 162.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that after sub-section (2) of section 148M (*now* 162) the following be inserted:—

"(*2a*) The provisions of Parts II and III of the Indian Limitation Act, 1877, shall apply to every such appeal."

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Jatra Mohan Sen; the President.*]

He said:—"My object, Sir, in moving this amendment is to avoid as far as possible the discussion of difficult questions of law. Section 148M (*now* 162) says:—

'Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the building or land is situated.

'(*2*) Such appeal must be presented to the Court of Small Causes within thirty days of the decision of the objection under section 148L (*now* 161), and must be accompanied by an extract from the register of objections containing the orders objected to.

'(*3*) No appeal shall be admitted under this section unless an objection has first been taken under section 148L (*now* 161).'

"A question which may be raised, and often has been raised, is whether in preferring such an appeal as this it would be open to the appellant to deduct the time which must necessarily elapse for taking a copy of the order made against him. If he were appealing against an order of a Civil Court, he would be entitled to the deduction as a matter of right. I want to have the matter cleared up, and I simply say that the provisions of the Limitation Act which apply to ordinary appeals shall also apply here."

The Hon'ble MR. BAKER said:—"No such difficulty has ever been brought to my notice. It is a matter of law, and I do not propose to say much about it. I should have thought that, as the Indian Limitation Act is a general Act, the provisions of Parts II and III apply to all India."

The Hon'ble BABU JATRA MOHAN SEN said:—"My impression is that the general provisions of the Limitation Act do apply, but at the same time it would be safe to have this proviso."

The Hon'ble THE PRESIDENT said:—"I am addressing myself to the Hon'ble the Legal Remembrancer. This section provides a period of limitation for an appeal of thirty days. Now, let it be supposed that the Indian Limitation Act in similar cases prescribes sixty days. Of course a special provision in this Act would over-ride the Indian Limitation Act as regards the period of limitation; but would the fact that we had inserted a period of limitation of thirty days exclude the Indian Limitation Act as regards Parts II and III?"

[*Mr. Handley; Dr. Asutosh Mukhopadhyaya; Babu Boikanta Nath Sen; Mr. Baker.*]

The Hon'ble MR. HANDLEY said:—"I do not think so, Sir. Section 12 of the Limitation Act provides as follows:—

'In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

'In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

'Where a decree is appealed against or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

'In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy or the award shall be excluded.'

I should think that would apply also to this section, even though it is a special law."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"This discussion illustrates precisely what I want to avoid. In this room we have lawyers who do not agree, and I am quite sure that, if two of them were to sit down to argue this question, they would satisfactorily argue it both ways. Uncertainty in the law is the chief thing I want to avoid."

The Hon'ble BABU BOIKANTA NATH SEN said:—"No doubt there is considerable force in what the hon'ble mover of the amendment has observed. It is much better to be on the safe side. The applicability of the general law of limitation with regard to special Acts is a matter which admits of argument on both sides. It is not a point which has been very conclusively settled. There is a difference of opinion as regards the applicability of the general law of limitation to control special Acts. It is a doubtful point therefore, and it is only to be on the safe side that this amendment might be accepted."

The Hon'ble MR. BAKER said:—"I think, having regard to what has fallen from the various legal Members, it would be wiser to accept the amendment. The intention is that proceedings before the Small Cause Court should be governed by those parts of the Limitation Act, and my only doubt was whether

that effect would not be produced without the insertion of those w there seems to be some doubt on the point, I think the Council would to accept the amendment."

The motion was then put and agreed to.

SECTION 163.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in sect (*now* 163), sub-section (*3*), after the word "shall" the following inserted:—

"subject to the provisions of section 6 of the Presidency Small Cause Courts Ac section 25 of the Provincial Small Cause Courts Act, 1887, as the case may be."

He said:—"I may mention at the outset that this does not star same footing as a similar amendment of mine, which I had the honou on a previous occasion. What I intend to do by this section is to con High Court power which it does not possess under its charter, but pow it derives under certain special Acts, of revising the proceedings of Cause Court upon questions of law. Section 25 of the Provinc Cause Courts Act provides that, if a case has been decided by a Court Causes, the High Court may send for the record, and, if there has bee of law, may make such order as it deems necessary. Subject to this tendence of the High Court, the decision of a Small Cause Court Appeals in assessment cases will lie to the Court of Small Causes, question is whether, after a case has been decided by a Court of Sma it is desirable that its decision should be absolutely final or should b revision upon a question of law only—not upon a question of fact—by Court? I think it is desirable that the High Court should have such shall illustrate the position by a recent case in point which the Corpor not speedily forget. Last year under the existing Act there was a assessment in which the rate-payer said that the whole process of adopted by the Municipality was wrong. There was an appeal to the Small Causes; the Judge of the Small Cause Court decided in favour of payer; the Corporation moved the High Court and obtained a ru section 25 of the Provincial Small Cause Courts Act. There could not be any doubt that the question of law which was raised was a very i and difficult one, because, I find from this Bill, the provisions of the relating to that matter have been changed; but although the questic

raised was a very important one—of importance not only in that case, but of importance in all similar cases—the High Court had no jurisdiction to interfere. And why? The Small Cause Courts Act says:—'Nothing in this Act shall affect any of the provisions of a local Act.' The Calcutta Municipal Act is a local Act, and therefore the Judges held that section 25 of the Provincial Small Cause Courts Act had no application whatsoever: in other words, if this had been a case decided by a Judge of the Small Cause Court under the Small Cause Courts Act, the High Court would have been entitled to interfere; but as he decided it under the Calcutta Municipal Act, and not under the Small Cause Courts Act, the High Court was powerless. The only way it could interfere would be under its charter, but it never interferes under its charter unless the subordinate Court has acted without jurisdiction, and confessedly the Small Cause Court had ample jurisdiction, even the jurisdiction to decide erroneously, in the matter. Therefore, although the decision of the Small Cause Court Judge was a very doubtful one, the High Court could not interfere; and it was fortunate for the Corporation that this Bill, at the time, was before the Select Committee, otherwise the consequence would have been that an erroneous decision of the Small Cause Court would have been binding upon the Municipality, the whole system of assessment would have been upset, and the mischief would have remained without remedy probably for years.

"I hope I have amply made out my position that the High Court should have the power of interference upon questions of law. I should add that, when the High Court interferes under section 25, it does not interfere simply because the party who moves the Court wants the Court to do so. The High Court will interfere only if a case is made out of absolute injustice; that is to say, it is not sufficient to say to the High Court that there has been an error of law; you must satisfy the Court that there has been an error of law which has caused grievous injustice to one party or another. I will give an instance: a creditor sued his debtor for money; the debtor was honest enough to take the defence of limitation and pleaded that the claim was barred; the Small Cause Court decided in favour of the creditor and overruled the plea of limitation, upon clearly erroneous grounds. The debtor moved the High Court, but the High Court said:—'We are not going to interfere; it may be that the Small Cause Court Judge has erroneously decided the question of limitation, but the consequence has been that it has directed the debtor to pay his debt; we do not assist dishonest people.' So that, if you confer this power upon the High Court, there

[*Dr. Asutosh Mukhopadhyaya ; Mr. Baker.*]

will be no interference except for the sake of justice. We ought not to find ourselves absolutely helpless when a Small Cause Court Judge erroneously decides a novel or difficult question of law which, you may be sure, will frequently arise upon the construction of an Act which will be, perhaps, the longest on the statute book. Besides, there is no imaginable reason why the decisions of a Small Cause Court Judge under the Municipal Act should enjoy an absolute finality, while his other decisions, under the ordinary law, have only a qualified finality, and may be challenged any moment before the High Court."

The Hon'ble MR. BAKER said:—"The Hon'ble Dr. Asutosh Mukhopadhyaya has discussed this matter with myself and the Chairman, and he has convinced us that it will be to the advantage of the Corporation to allow an appeal to the High Court on questions of law from the decisions of the Small Cause Court. I therefore propose to accept the amendment."

The motion was then put and agreed to.

SECTION 165.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148P (*now* 165), sub-section (*1*), line 5, before the word "which" the words "the reason for" be inserted.

He said:—"This is a small matter, and I believe my amendment gives effect to what was really intended. The amended section will read as follows:—

'Any owner or occupier may at any time apply to the Chairman to have his name entered as owner or occupier in the assessment-book; and the Chairman shall, unless there is sufficient reason to refuse such application (the reason for which refusal shall be recorded in writing), cause such name to be entered in the assessment-book.'"

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

SECTION 169.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 148SS (*now* 169), line 4, after "148M" (*now* 162) the words "or under section 148N (*now* 163), sub-section (*3*)," be inserted.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Jatra Mohan Sen.*]

He said:—"There must have been some mistake in this, because it does not make sense. The section is as follows:—

'When the valuation of any building or land is revised in consequence of an objection made under section 148K (*now* 160) or an appeal preferred under section 148M (*now* 162), the revised valuation shall continue in force for the unexpired portion of the period for which the first-mentioned valuation was made, and no longer.'

"It ought to be 'or an application made under section 148N (*now* 163).' We have just amended section 148N (*now* 163), clause (3), so as to make it read 'Every decision made by the Court of Small Causes under section 145M (*now* 162) shall be final, subject to the provisions of section 6 of the Presidency Small Cause Courts Act, 1882, or section 25 of the Provincial Small Cause Courts Act, 1887, as the case may be.' Of course, if the High Court interferes upon a question of law and sets aside the valuation, that will have to be given effect to."

The Hon'ble MR. BAKER said:—"There is no application made under section 148N (*now* 163), even as amended."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"In that case I would not alter the section, but leave it as it is."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 148SS (*now* 169), line 5, the words "till the end" be substituted for the words "for the unexpired portion."

He said:—"The decision referred to in section 148SS (*now* 169) is meant to be prospective and retrospective. I do not know whether the words I have proposed to substitute here would commend themselves to the Hon'ble Member in charge of the Bill. If they do not, I do not press the amendment."

The Hon'ble MR. BAKER said:—"I do not see any object in making the change."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble BABU JATRA MOHAN SEN moved that the following proviso be added to section 148SS (*now* 169), namely:—

"Provided that no question decided under section 148K (*now* 160) or section 148M (*now* 162) shall be re-opened at the re-valuation on the expiration of the period for which the

[*Babu Jatra Mohan Sen; Mr. Baker; Babu Surendranath Banerjee Dr. Asutosh Mukhopadhyaya.*]

previous re-valuation was made, if the facts and circumstances on which the decision was arrived at continue to exist on the expiration of the said period."

He said:—"If for instance a house or building is exempt for assessment under the law, but was assessed by the municipal authority, and the assessment was set aside by the Calcutta Small Cause Court under the provisions of this chapter, it would not be admissible to re-open the proceedings at the re-valuation. It would be incurring useless expense. The Municipality will have to incur expense if the matter is re-opened, and the party also would be harassed if he has to go again to the Small Cause Court to establish his point. To guard against such an injustice I have thought fit to put in this proviso."

The Hon'ble MR. BAKER said:—"If this amendment has any effect at all, it can only be to throw purely technical difficulties in the way of a re-valuation. If that is not the effect of it, it has no effect; for if, as a matter of fact, the circumstances and the facts did remain unchanged, then there would be no ground for altering a valuation and no re-valuation would be made. I myself regard the amendment as unpractical, and I hope it will not be accepted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am in strong sympathy with the amendment of the Hon'ble Babu Jatra Mohan Sen, because the effect would be no enhancement of the valuation at all. It would, no doubt, be undoing the work which we have been doing for the last couple of days, but, if the Council is prepared to accept it, I certainly will not stand in the way. I certainly would welcome it, because it would be exactly in form with some of the amendments which I myself have moved and which have been rejected. I have not the smallest objection, but the only difficulty is that it is at variance with the decision of the Council in regard to three amendments running on the same lines."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I desire to point out that the amendment completely defeats its own object. It says:—

"Provided that no question decided under section 148K (*now* 160) or section 148M (*now* 162) shall be re-opened at the re-valuation on the expiration of the period for which the previous re-valuation was made, if the facts and circumstances on which the decision was arrived at continue to exist on the expiration of the said period."

[*Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen; Babu Surendranath Banerjee; Mr. Baker.*]

"But those facts and circumstances are precisely what we have to investigate for the purpose of ascertaining whether there is to be any alteration in the re-valuation or not. In order to give effect to the amendment you must make out whether the facts and circumstances continue to exist. I do not see what is to be gained by it."

The Hon'ble Babu JATRA MOHAN SEN, in reply, said:—"It seems to me that there is no contradiction whatever in this amendment. Of course, the authority deciding as to whether it should revise or not would have to see as to whether the facts and circumstances do continue to exist as before."

The motion was then put and lost.

SECTION 150.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Before I proceed to move my next amendment on the paper, I want to remind the Hon'ble Member in charge of the Bill that he has entrusted me with an amendment which I may call the 'poor man's' amendment, and, if he would allow me, I would move it now."

The Hon'ble MR. BAKER said:—"That is a matter in which the Hon'ble Babu Surendranath Banerjee and myself have been in communication, and I am prepared to accept the amendment if he moves it. It ought to have been introduced a little sooner; but the Secretary will no doubt insert it in its right place."

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the President, moved that the following sub-section be inserted in section 148 (*now* 150), namely:—

"With the previous sanction of the Local Government, the Corporation may, by resolution, exempt from the consolidated rate all buildings and lands the annual valuation of which, as determined under this Chapter, does not exceed twenty rupees or such smaller sum as may be specified in such resolution:

Provided that no person shall be entitled to claim the benefit of such exemption if he owns or occupies more than one building or piece of land and the aggregate annual valuation of all the buildings or lands owned or occupied by him exceeds twenty rupees or the smaller sum specified in the said resolution."

[*Babu Surendranath Banerjee.*]

He said:—"I raised this point at the meeting of the Select Committee. I suggested to the Select Committee that it would be only right and proper that very small houses should be exempted from the assessment, and the figure that I ventured to suggest was Rs. 25 or Rs. 20. This is altogether an enabling section, that is to say, it gives the Corporation power by resolution, subject to the approval of the Local Government, to exempt from the consolidated rate all buildings of a certain assessment and below a certain assessment. The figure is taken very low. It is all buildings assessed at Rs. 20 or under which may be so exempted, and there is this safeguard that, if they are to be exempted, the exemption must take place subject to a resolution of the Corporation, and further this resolution must be confirmed by the Local Government. Therefore you have guarantees which make it impossible for the Corporation to abuse the power which it is proposed to confer on it. It is important to know what the financial effect of an exemption like this would be, and here I may say that I placed myself in communication with the Municipal Executive. I had an opportunity of talking this matter over with the Vice-Chairman. He thought the exemption might be estimated at about Rs. 10,000 annually, but in estimating this loss of Rs. 10,000 we should bear in mind that you dispense with the necessity of writing out a large number of small bills. That means a saving of expenditure, and that expenditure may be set down at Rs. 2,000 or Rs. 3,000, and then, what is more important, you do not let loose the municipal underiings upon a helpless class of the community. The rate which would be paid by huts assessed at Rs. 20 would be at 20 *per cent.*, about one rupee per quarter, and you exempt all houses which contribute to the consolidated rates to the extent of Re. 1 per quarter. These people constitute the poorest section of the community, and you have to incur considerable expenditure in writing out these bills and in providing machinery for collection; and there is the further fact that you send your underlings to these people to realise the amount, and there is that demoralization consequent on the underlings being brought in contact with them. Having regard to the fact that the Corporation loses little, if anything, and that relief is given to a class of the community who deserve this relief, I trust, Sir, that this amendment will be accepted by the Council. Yesterday I ventured to call attention to the principle of John Stuart Mill with regard to the assessment of residential

houses. John Stuart Mill laid down the principle that the annual valuation should be 5 *per cent.* or 4 *per cent.*, according to the prevailing rate of Government securities, of the present estimated cost of buildings plus the value of the land upon which these buildings stand, and he supplemented this principle by another principle, *viz.*, that the house-tax being in the nature of an income-tax, houses below a certain assessment ought to be exempted from the house-tax. This amendment, if accepted, would go some way to give effect to this principle. You have accepted the principle of John Stuart Mill in one part of the Bill; it is right and proper you should accept it in another. And having regard to the relief to the poor owners, the very slight loss which the Corporation would incur; and the avoidance of the demoralization which also would be the necessary result, I trust that there will be a unanimous vote with regard to this matter."

The Hon'ble MR. OLDHAM said:—"I am sorry I must oppose this amendment. In the Select Committee a note of discord was raised as to this matter. Ever since I have been in the Corporation I have had to play the part of the stony-hearted Commissioner and to remonstrate again and again against other people's money being given away for private charitable institutions. I remember this question being discussed in Select Committee, and the proposal was strongly opposed not only by myself, but by Babu Narendra Nath Sen, on the ground that if people choose to live under this Corporation, and to obtain certain services from the city, they should pay for them, and if they do not wish to pay for these services they should go elsewhere. Although I fully appreciate the argument on which the hon'ble mover of the amendment lays most stress, that the striking off of these people's names will greatly simplify the work of the Corporation, and also relieve them from the Municipal underlings, I would also point out that such a section of the community would be stamped as paupers and as people who receive charity, and that the effect of the amendment would be an invitation to people of this class to come to Calcutta."

The Hon'ble MR. BAKER said:—"I think, Sir, the exemption from house-tax of buildings assessed below a certain sum stands on exactly the same footing as the exemption of incomes below a certain figure from income-tax, and I never heard that people who are exempt from income-tax are regarded as being pauperised by that exemption. I am in entire sympathy with the mover of the

amendment. I think there is a very large class of poor people in Calcutta who have great difficulty in paying their rates, and it would be a great relief to these people if some measure of this kind should be accepted. We have provided in this amendment ample safeguards against the possible abuse of the power. The Corporation has to fix a limit, and they have to pass a resolution; the resolution has to be confirmed by Government, and there is also a proviso, that the exemption is not to apply to people who own more than one piece of land or more than one building, and in whose case the aggregate value of such buildings exceeds the particular limit. I think with those safeguards there is very little danger of such a provision being abused."

The Hon'ble MR. APCAR said:—"I also support this amendment. As it now has worked, many are exempt by special order, and they are not compelled to pay because of their poverty, and as the Hon'ble Member in charge of the Bill has said, there are ample safeguards, which would be sufficient to obviate any abuse of the power that is here given. Those poor who happen to live here in Calcutta are here under circumstances which made it necessary for them, I suppose, to live within the jurisdiction of the Corporation. In the Suburbs before the amalgamation they were only paying 7½ per cent. Now they have to pay 19½ per cent., and it may be they will yet have to pay 23 per cent. I think it is a very hard measure to regard it in such a stern light as the Hon'ble Mr. Oldham has, and to compel these poor people to strike their tents and move away. Where are they to go? They are living here among their relations and people and earning their livelihood. Are we to deprive them of their means of existence? I think I would leave them here to enable them to earn their living here. This measure is one which I think can be very well afforded in all circumstances by the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to say a word or two in reply to the remarks of the Hon'ble Mr. Oldham. I fully appreciate his motives, namely, to safeguard the financial interests of the Corporation, and of course those motives must be exceedingly strong now, having regard to the fact that he stands alone as the champion of the financial interest of the Corporation, having been deserted by a large number of his colleagues, and I strongly sympathise with him. I desire to point out that in the mufassal we have exactly the same law, namely, that although there the

people receive the services which it is in the power of the Municipality to render, the Municipality has got the power under the Act to exempt persons entirely from the payment of the rate—a benefit which is enjoyed by the poor in the mufassal towns."

The Hon'ble MR. OLDHAM said:—"As individuals, not as a class."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think it should be as a class rather than as individuals. As regards an individual, personal feeling may come into operation. I think, Sir, ours is a better system than the law which prevails in the mufassal, and I hope and trust, when the mufassal law comes to be revised, it will be revised upon the lines of the amendment which I have just laid before the Council. I trust that even the note of discord which the Hon'ble Mr. Oldham has raised in this matter will be withdrawn when the final vote upon this matter is taken."

The Hon'ble THE PRESIDENT said:—"I was under the impression that the mufassal municipalities did authorise 'general exemption,' but I find on referring to the law that the Hon'ble Mr. Oldham is right, and that power is only given to Commissioners to exempt in individual cases. However, I am very pleased to express my entire concurrence in the proposal of the Hon'ble Babu Surendranath Banerjee. I speak here personally. I do not wish to influence in any way the votes of the Council."

The motion was then put and agreed to.

SECTION 171.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or before" after the words "payable on" in line 4 of section 149 (*now* 171) be omitted.

He said:—"The section as I propose to amend it, will read as follows:—

'One-half of the consolidated rate shall be payable by the owners of the buildings and lands, and the other half by the occupiers thereof; and each such instalment shall be payable on the fifteenth day of April, the fifteenth day of July, the fifteenth day of October, and the fifteenth day of January for the quarters respectively commencing on the first day of each of those months.'

"The words as they stand in the section are 'shall be payable on or before the 15th April.' I think you ought to give a precise date. You ought to say

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Apcar; Dr. Asutosh Mukhopadhyaya.*]

payable on such a date, and not 'on or before.' It seems to me that that is a more precise form of expression, and then I am to point out to the Council that that is the present law. In the existing law we have not got the words 'payable on or before,' but [illegible]ble on 15th day of April.' I confess it is a very small matter, but, as we are legislating, it is as well that we should be precise."

The Hon'ble MR. BAKER said:—"In the present Act the words are 'payable on the first day of each quarter,' not 'on the 15th day of each quarter.' I am very much surprised at this amendment. In the original Bill the words were 'shall be paid on the 15th day of April,' and I think it was at the instance of the Hon'ble Member himself that it was changed to 'payable on or before.'"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"But it is a precise date."

The Hon'ble MR. BAKER said:—"Yes; on the first day of each quarter."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The date is immaterial, but it must be a precise date."

The Hon'ble MR. BAKER said:—"It is quite precise. You could not have it payable on or before the first day of the quarter."

The Hon'ble MR. APCAR said:—"I think if a person is willing to pay before the 15th day of April, he ought to be encouraged."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If the Hon'ble Member in charge of the Bill has any serious objection, I do not want to press this amendment."

The motion was then, by leave of the Council, withdrawn.

SECTION 172.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that section 150 (*now* 172) be omitted.

He said:—"I have explained my position with reference to this section in the course of my speech upon the first amendment* which I had the honour

*Printed *supra*, p. 7[illegible]

to move this morning in connection with section 148A (*now* 151). I do not think it necessary to repeat those arguments. My contention is that it would be better to leave this matter to be settled by the contracting parties. The section says:—

'If the annual value of any building or land, as determined under this Chapter, exceed in any case the amount of rent payable to the owner, the owner may in such case recover from the person who pays him rent the difference between the sum assessed upon him as the owner's share of the consolidated rate and the sum at which he would have been assessed had the building or land been valued only at the amount of rent actually payable to him, and such difference shall be added to the rent and shall be recoverable by the owner from the person liable for the payment of the rent.'

"The Council could not have failed to observe that the assessment to which this section is applied is based upon the fictitious principle that the tenant holds under a lease from year to year. As a matter of fact we have often to deal with landlords and tenants when there is not a lease from year to year but a lease for a longer period; this necessarily affects the rent, which may, further, be affected by the amount of the premium paid. If so, it is not necessary, I venture to think, that the Legislature should interfere between them and lay it down as an absolute and inflexible rule of law that, whenever an arbitrary assessment, made in accordance with the provisions of this Act, does not agree with the actual rental, the owner should be placed in a position of advantage to which he may not always be entitled. Section 150 (*now* 172) is based upon the presumption that whenever the assessment for municipal purposes exceeds the actual rent, the rent assessed is the fair rent. As I have already explained, there is no foundation for this assumption. I venture to think that, whatever we may do for the purposes of municipal assessment, we need not trouble ourselves about the relation between landlords and tenants. They may well be left to settle that matter between themselves."

The Hon'ble MR. BAKER said:—"I need not say very much in reply to the remarks that have been made by the hon'ble mover of the amendment. The principle of the assessment clauses of the Bill is that we are to have regard to the annual value of the holding as determined under the Bill. If the actual rental differs by being either above or below the determined annual value, it is ignored altogether. This section gives effect to that principle. I think, as we have accepted that principle in the main sections of the Bill, we are

[*Mr. Baker; Babu Surendranath Banerjee; Babu Boikanta Nath Sen; Babu Jatra Mohan Sen; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

bound to follow it now. The Hon'ble Member in speaking on the original amendment instanced the case of a man who leased a house, and received a large premium and a very small rental. That is clearly the case in which this section would apply, and I think it ought to apply. There is no reason in a case like that why the owner should be saddled with the whole of the rates which would have been payable by him had he received the consideration for the house in the form of a rent only, and not rent *plus* premium."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The present section is the existing law, and I do not know that any complaint has ever been made as to the operation of this law, and it seems to me, whatever might be the view a lawyer might take, the law is perfectly fair and equitable. The principle laid down is a principle which commends itself to me as fair and legitimate. The existing law has not been attended with any hardship; it has worked well, and I have the Vice-Chairman's authority for it. In these circumstances it seems to me that the section ought to be allowed to remain as it is."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I think the present section ought to be maintained. The particular shares of the cesses payable by tenure-holders and raiyats to zamindars are all clearly defined. It has not been left to the law of contract being applied for a rateable contribution. By analogy, therefore, I think the section ought to be allowed to stand as it is."

The Hon'ble BABU JATRA MOHAN SEN said:—"I think the section ought not to be disturbed. In cases of excess assessment, power has been given to the owner to realize it from the tenant, but in case of under assessment no corresponding power seems to have been given to the tenant to have this tax reduced. I would urge, therefore, that the contractual relations between landlord and tenant should not be disturbed."

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, said:—"I oppose this amendment. If this section be omitted, it will be hard upon owners, as they will have to pay the extra tax from their own pockets, which is not fair."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 150 (*now* 172), line 11, after "recoverable" the words "as rent" be inserted.

He said:—"This is a very small matter. My object is to place this section on the same footing as section 162 (*now* 183), which provides as follows:—

"Every owner who is entitled under section 158 (*now* 179) or section 161 (*now* 182) to recover any sum from the occupier of any building or of any portion thereof, or from the owner of any hut or masonry building in a bustee, shall have, for the recovery of such sum, all remedies, powers, rights and authorities which he has for the recovery of rent."

"If the section is amended as I suggest, then no question can arise as to the Court which will have jurisdiction over suits for the recovery of the sums specified in this section."

The Hon'ble MR. BAKER said:—"I do not see any particular objection to this. At first I was disposed to think that if the owner had any other right of recovery, other than in the form of rent, it would be unreasonable to take it away; but on consideration I am disposed to think that is not the intention of the section. It was all along intended that he should recover it as rent, and not in any other form."

The motion was put and agreed to.

SECTION 175.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 152A (*now* 175) all the words from "and" in line 5 to the end be omitted.

He said:—"I suggest the omission of the following words from section 152A: 'and such period shall be calculated from the date on which such notice is delivered at the municipal office.'

"I wish to point out that, if these words are allowed to stand, section 152A (*now* 175) becomes inconsistent with section 151 (*now* 173), which provides as follows:—

"When any building or land whereon the consolidated rate is assessed has remained unoccupied and unproductive of rent for a period of sixty or more consecutive days during any year, the person liable to pay the owner's share of the consolidated rate shall, if written notice of the facts be given to the Chairman, be liable to pay only one-fourth of the consolidated rate due on account of such period; and, if more than one-fourth of the consolidated rate has been paid in advance, the surplus shall, on demand, be refunded."

"This is followed by section 152A (*now* 175), which says that the owner would be entitled to the benefit of the section only from the date when he served a notice on the Corporation. To illustrate how this will work, let me

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

put a concrete case. A house is vacant for 62 days; the owner is entitled to a reduction of the rates from the date of the vacancy, provided he serves a notice on the Corporation on that date. But, if the house had been vacant for less than 60 days, he would not have been entitled to any reduction at all. In other words, you require the owner to give notice before the expiry of the 60 days, though he may never become entitled to the benefit of the section. This seems to me to be wholly unnecessary: for ordinary purposes, it ought to be sufficient if notice is given at any time during the vacancy."

The Hon'ble MR. BAKER said:—"This section reproduces the existing law. It was not an oversight. It was the intention of the framers of the original Bill and of the Select Committee to follow the existing practice, and the object of these words is to prevent an *ex post facto* application for remission."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I do not think that any case has been made out for a change in the law. It is the existing law, it has worked well, and I do not think there is any necessity for changing it."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I regret I cannot make myself intelligible either to the Hon'ble Member in charge of the Bill or the Hon'ble Babu Surendranath Banerjee; but sections 151 and 152A (*now* 173 and 175) seem to be absolutely inconsistent, because you say that, as soon as the house has been vacant for one day, the owner must give notice, although there may be a vacancy for less than 60 days, and he may never become entitled to the reduction with a view to which he admittedly gives notice. He notifies to the Corporation the fact of the vacancy, avowedly for the purpose of getting a reduction in the rates, but till there has been a vacancy for 60 days he himself does not know whether he is or is not entitled to such reduction. When an argument is unanswerable, the easiest way to escape is to pin one's faith to the existing law, which, I take it, is an emblem of perfection."

The motion was then put and lost.

NEW SECTION.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, moved that the following section be inserted after section 152A (*now* 175):—

"152B. For the purposes of sections 151 and 152 neither the presence of a caretaker nor the mere retention in an otherwise unoccupied dwelling-house of the furniture habitually used in it shall constitute occupation of the house."

He said:—"The section which I now propose to be inserted was in the original Bill. It was struck out by the Select Committee on the ground that it

[*Raja Ranajit Sinha Bahadur, of Nashipur; Mr. Baker; Babu Surendranath Banerjee.*]

would involve a loss to the municipality. Sir, we should consider what is just and unjust. Calcutta is the metropolis of India, and so men living in different parts of the empire have to come here occasionally, and especially during the winter, when it becomes the seat of the Government, and many of them have to keep furnished houses here which are not occupied even for a month during the whole year. So the mere presence of a durwan or a caretaker or mere retention of some articles of furniture should not be deemed to constitute occupation when there is no occupation at all. I hope the Council will accept my amendment."

The Hon'ble MR. BAKER said:—"I desire to support this amendment. It was in the original Bill, as the Hon'ble Raja has pointed out. It is taken from section 64, clause (4), of the Punjab Municipal Act, and it seems to me entirely consistent with equity. It affects chiefly the case of the occupier. As the Hon'ble Raja has pointed out, when the occupier is absent from his house for any reason, it is impossible for him to get any benefit from the various services rendered by the Municipality. He can make no use of the water-supply; he can make no use of the lighting or of the roads. It seems to me to be entirely unjust that occupier's rates should be charged in a case like that, and the mere fact that he has a caretaker or a durwan, and that he leaves his furniture there, seems to me not to be any justification for levying these rates. The caretaker uses an inconsiderable quantity of water, and at all events he cannot utilise the municipal services to anything approaching the same degree as the occupier would utilise them if he was himself present."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I should have rejoiced if I could have found it possible to support the amendment of my hon'ble friend Raja Ranajit Sinha. I presume the Hon'ble Member in charge of the Bill, in making the speech to which we have listened, has spoken on his own personal behalf and not on behalf of the Select Committee; because the Select Committee distinctly recommended that this clause, which found a place in the original Bill, should be withdrawn, and by a vote of the majority it was withdrawn. We gave the matter our anxious consideration, and we all came to the deliberate conclusion that the Simla people who come here and who are birds of passage—I do not mean to speak disrespectfully—ought to contribute their share to the municipal taxes of Calcutta. The Hon'ble Member in charge of the Bill has remarked that when an occupier is away he cannot enjoy municipal benefits, and therefore it is not right that he should be called

upon to make any contribution to the municipal funds. I am delighted to find the Hon'ble Member in such deep sympathy with occupiers. Hitherto his sympathy has been with the Municipality; now my friend sympathises with the occupiers of houses. I ask him to look at the matter from the Corporation's point of view. If the occupier was pleased to leave the house altogether, some other occupier would take it and the municipal rates would be paid. I think it is from that point of view that the Council ought to look at a matter like this. The question is not whether the occupier reaps the benefits of municipal services, but whether he ought to be permitted to deprive the Corporation of taxes which the Corporation might have received if he did not stand in the way. He stands in the way, he prevents another person from occupying that house, and surely he ought to make good to the Corporation the taxes which the Corporation would otherwise have received. This very question was discussed in this Council in connection with the mufassal Municipal Bill, and I am perfectly certain the authority of Mr. Herbert Reynolds would be regarded as of great weight by Members of this Council. I desire to read an extract from a speech which he made in this connection, and I want to point out to my hon'ble friend the Member in charge of the Bill this further fact that, as he is so fond of quoting English precedents in support of his views, he will find that English precedents entirely support my view. This is what Mr. Reynolds said:—

'He would take this opportunity of mentioning that a representation had been made by the Deputy Commissioner of Darjeeling with reference to the necessity for a definition of a vacant holding. The Deputy Commissioner said it was a common thing for an unoccupied house in Darjeeling to be kept more or less furnished, and to be left in charge of a chaukidar or caretaker, and it was a question whether, as long as the owner received no rent, the holding should be treated as a vacant holding. Mr. Reynolds did not think that the holding should, under such circumstances, be considered a vacant holding, and he had not therefore brought forward any proposal for defining a vacant holding.'

"Then Mr. Collier, from whose book I quote, goes on to say:—

'The law is clear that a holding under the circumstances stated cannot be held to be vacant; and has been thus stated. Lush J., says (*Reg. v. St. Pancras*, 2 Q.B.D. 581): "The owner of a vacant house is in possession, and may maintain trespass against any one who invades it; but so long as he leaves it vacant, he is not rateable for it as an occupier. If, however, he furnishes it, and keeps it ready for habitation whenever he pleases to go to it, he is an occupier though he may not reside in it one day in the year." If the owner did not keep the furniture in the house he would have to keep it somewhere else, and he may, therefore, be regarded as making use of the house, at least as a warehouse for

the furniture. Slight as such user may be, it is enough when added to legal possession to constitute occupation.'

"The provision which finds a place in this Bill is thus in entire conformity with the English law. It is in entire conformity with the mufassal law, and it seems to be in conformity with the principles of justice. It is only right and proper that the municipal funds should not in any way suffer. If the house was not furnished, although the person who furnished it might be away, somebody else would take the house. Somebody else is not permitted to contribute to the municipal funds by reason of the action of this occupier. Therefore I think, Sir, the person who has furnished the house ought to pay, and the municipal taxes ought not to suffer in consequence of his action in this matter. That seems to me to be the plain view of the matter."

The Hon'ble THE PRESIDENT said:—"I should like to ask the Hon'ble Babu Surendranath Banerjee a question on which he may be able to enlighten not only me but the rest of the Council. It seems to me that the practical question in this matter is whether, when an occupier leaves his house unoccupied by himself for a large part of the year, the number of such houses is sufficiently large to enable the Municipality to reduce its establishment in any kind of way. It is quite true, as the Hon'ble Member in charge of the Bill has said, that the occupier of the house, so long as he is not in personal occupation, does not use the municipal services as he would do if he were present, and it is also true that, if he let his house to somebody else, that person would use those services and would pay for them. What I should like to get from the Hon'ble Babu Surendranath Banerjee's personal knowledge of the matter is whether the number of such unoccupied houses is sufficiently large to enable the Municipality at any season of the year to reduce the establishment which fulfils those services for these unoccupied houses."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"No, Sir, I do not think we can reduce the establishment."

The Hon'ble MR. BOLTON said:—"I agree with the Hon'ble Babu Surendranath Banerjee in opposing this amendment. A tenant who retains a house throughout the year in Calcutta, although ordinarily residing elsewhere, does so to suit his own purpose. He needs it for occupation during a portion of the year or occasional visits. If it were not in his possession, another tenant would occupy it and pay the municipal taxes. It is right, therefore, that no

[*Mr. Bolton; Mr. Oldham; Mr. Mackenzie; Babu Surendranath Banerjee.*]

portion of the taxes for the year should be remitted. Moreover, the landlord receives the rent, and should pay his portion of the taxes; but the amendment would exempt him also."

The Hon'ble Mr. OLDHAM said:—"I, too, like every member of the Corporation, am in complete accord with what my hon'ble friend, the Hon'ble Babu Surendranath Banerjee, has said; and, as regards the question asked by Your Honour, not only can there be no reduction of the Municipal establishment in the case of these houses, but there is a very great chance of the municipal water being wasted because of the absence of the proper occupant of the house, the house being left to the servants."

The Hon'ble MR. MACKENZIE said:—"I should like to ask whether it is not the fact that when a house is unoccupied the water-supply is actually cut off. I think I am right in saying it is cut off."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If the rates are paid, it is not cut off."

The motion being then put, the Council divided as follows:—

Ayes 4.	*Noes 13.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Mr. Mackenzie.	The Hon'ble Mr. Buckland.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Baker.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
	The Hon'ble Babu Boikanta Nath Sen.
	The Hon'ble Babu Surendranath Banerjee.
	The Hon'ble Mr. Apcar.
	The Hon'ble Dr. Asutosh Mukhopadhyaya.
	The Hon'ble Mr. Spink.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Old[illegible]
	The Hon'ble Mr. Bol[illegible]
	The Hon'ble Mr. Sla[illegible]

The Hon'ble BABU JATRA MOHAN SEN did not vote.

So the amendment was lost.

[*Dr. Asutosh Mukhopadhyaya.*]

SECTION 179.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to section 158 (*now* 179) the following be added:—

"Where such occupiers pay rent to the owner, the amount of rent paid by each shall ordinarily be the measure of the value of the portion of the building in his occupation."

He said:—"Section 158 (*now* 179) says:—

'When the entire rate is paid by the owner of any building under section 157 (*now* 178), such owner may, if there be but one occupier of the building, recover from such occupier half of the rate so paid by him, and may, if there be more than one occupier, recover from each occupier half of such sum as bears to the entire amount of rate so paid by the owner the same proportion as the value of the portion of the building in the occupation of such occupier bears to the entire value of such building.'

"To illustrate this, let us take a case in which a landlord has a house which he lets to several tenants. There are four tenants, and the landlord pays the entire rate. He is entitled to get the occupier's share of the rate from these four tenants, and the question arises how this is to be apportioned amongst them. The law provides that the apportionment is to depend upon the value of the building in the occupation of each tenant. The calculation of the value of the portion of the building in the occupation of each tenant may sometimes give rise to difficult questions; we may avoid this by recourse to the presumption that, when such occupiers pay rent to the owner, the amount of rent paid by each shall ordinarily be the measure of the value of the portion of the building in his occupation. I do not think there can be any dispute that the amount of rent paid by a tenant is ordinarily the measure of the value of the portion of the holding in his occupation. A man may be in occupation of two rooms, paying Rs. 8 a month, and another tenant may have one room, paying Rs. 6 a month, there being a difference in the situation of the rooms. We might ordinarily say that the measure of the value of the rooms in the possession of the one is Rs. 8, and the measure of the value of the other is Rs. 6. No doubt it may so happen, to take an extreme case, that a landlord may have allowed a relation of his to be in occupation of a room at a merely nominal rent. In that case the amount paid may not perhaps be the measure of the value of the room in his occupation; but I take it that ordinarily, if there is an actual tenancy and rent is paid, the amount of rent paid by the tenant may be taken to represent the value of the holding in his possession; the insertion of the word 'ordinarily' will amply meet any exceptional cases."

[*Mr. Baker ; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER said:—"It seems to me, Sir, that with the addition of the word 'ordinarily' this amendment becomes entirely superfluous, because it is quite true, as the Hon'ble Member has pointed out, that the rent paid by any one of these occupiers is ordinarily the measure of the value of the portion of the building which he occupies. Therefore, those words add nothing to the meaning of the section as it stands. But there are exceptional cases, and the Hon'ble Member has instanced one where the owner of a house may allow a poor relative to occupy part of the house paying either no rent or a pepper-corn rent, and in that case it is not equitable that the other tenants should pay higher rates on account of that private arrangement between the owner and his favoured tenant. In that special case the section is limited by the amendment and makes no provision for determining how the respective portions are to be ascertained. This section simply reproduces the existing law, and so far as I know it has never given rise to trouble, and I think it ought to be maintained. I would further point out that the whole of the assessment sections of the Bill proceed on the basis of the ascertained annual value, and not on the basis of actual rent. Therefore, I think in this case also we should adhere to that principle and not have regard to the actual rent."

The motion was then put and lost.

SECTIONS 180 AND 181.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 159 (*now* 180), sub-section (*2*), all the words beginning with "and" in line 6 be omitted.

The Hon'ble Dr. ASUTOSH MUKHOPADHYAYA also moved that section 160 (*now* 181) be omitted.

He said:—"These two amendments are closely connected and may conveniently be discussed together.

"Section 159 (*now* 180) says:—

(*1*) Notwithstanding anything contained in section 149 (*now* 171), the entire consolidated rate leviable upon—

(*a*) bustee land,

(*b*) huts situated on bustee land, and

(*c*) any masonry building situated in a bustee on land which is not held on a lease for a term exceeding ten years,

shall, after deducting therefrom a sum equal to one-eighth of such rate, be paid by the owner of such land.

(*2*) The sum so deducted shall be retained by the owner of the land as a set off against the expenses which may be incurred in collecting the portion of the rate recoverable under section 161 (*now* 182) from the owners of huts or such masonry buildings as aforesaid, and as a commutation of all refunds in respect of huts or such masonry buildings as aforesaid which are vacant or which may be removed or destroyed during the continuance of the period for which the rate is leviable.'

"Section 160 (*now* 181) provides as follows:—

'The consolidated rate shall not be payable on account of any new huts built or any huts enlarged on bustee land during the year for which the valuation remains in force under proviso (*c*) to section 148B [*now* proviso (*b*) to section 152]."

"You will readily observe that the last clause of section 159 (*now* 180) is intended in a manner to compensate section 160 (*now* 181). This would be strictly so if in a bustee belonging to one owner during a portion of the year there were some huts vacant and in another portion of the year new huts were built. But, suppose that one bustee owner gets the advantage of sub-section (*2*) of section 159 (*now* 180) and another gets the benefit of section 160 (*now* 181), where is the compensation? Because one person builds some huts for which he has not to pay, there is no justification whatever why another man whose huts are vacant should be made to pay. To use a homely expression, I would say it was robbing Peter to pay Paul. I venture to think that in the last clause of section 159 (*now* 180), sub-section (*2*) all the words beginning with 'and' in line 6 and section 160 (*now* 181) should both be omitted. If huts are vacant, and if a bustee owner applies for a reduction, or if new huts are built, and it comes to the knowledge of the Municipality, the Municipality would be entitled to re-assess in either case.

"The strongest argument against my amendments is an appeal to the existing law. I know, Sir, this is the existing law, but we have destroyed the existing law in so many particulars that I do not think I should hesitate to change it in this respect also."

The Hon'ble MR. BAKER said:—"The Hon'ble Member will have to show, I think, that the existing law has worked badly in this particular before the Council can be expected to alter it, and I have never heard of any complaint as to this particular provision. The effect of the amendments would be that

the Municipality would be obliged to assess all new huts as soon as they were built in a bustee, and that would be a matter of extreme inconvenience. These huts are temporary structures. They are the property of the tenants and not of the bustee owner, and they are able to be put up quickly, and they may be removed within a month. It would be a matter of extreme difficulty to get all these assessed at once, and it is a much more convenient arrangement that the assessment should be for a whole year, leaving any changes that may take place within the year unadjusted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I entirely agree with what the Hon'ble Member in charge of the Bill has said. The practical difficulty will be serious in the way of giving effect to my hon'ble friend's amendments. There are constant changes in these huts; people are coming and going, and all those applications would be have to be submitted to the Corporation. I do not think it would be possible to carry out my Hon'ble friend's suggestion. And then, Sir, we have got this safeguard: huts are assessed once a year, so that whatever vacancies occurred they would come to light in the course of the year, and it strikes me that the practical difficulties are so serious that it would be impossible to carry out my friend's suggestion."

The motions were then put and lost.

SECTION 180.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for section 159 (*now* 180) the following be substituted:—

"One-half of the entire consolidated rate imposed upon bustee land and the huts built thereon shall be paid by the occupiers thereof, and the other half by the owners; and the other provisions of this Act as to the payment and recovery of the consolidated rate shall apply to such bustee land and huts;"

and that sections 160 to 162A be omitted.

He said:—"My object is to restore the law such as the law was in 1876. If I can show that the anticipations formed under the law of 1888 have not been fulfilled, and that the law as amended by the Act of 1888 has been attended with serious financial loss to the Corporation, I think, Sir, I shall be entitled to ask this Council to reconsider the judgment which it passed upon this matter in 1888. The two grounds which were urged on that occasion in justification

of this change of the law are these. In the first place, the ground of administrative convenience was urged. In the second place, it was stated that it was desirable to keep away the municipal underlings from the poor people who inhabited bustees. Both these grounds deserve consideration.

"I desire to state, in the first place, that administrative convenience is not to be confounded with administrative efficiency. I am free to admit that it is certainly more convenient to draw up 7,000 bills in place of the 70,000 bills which had to be made under the law of 1876. Under the law of 1888 you make only 7,000 bills addressed to the bustee-owners. Under the law of 1876 you had to make 70,000 bills, not addressed to bustee-owners, but to the occupants of those bustees. I am free to admit, as I have already remarked, that, as far as the ground of administrative convenience is concerned, there is much to be said in support of the law of 1888; but, Sir, I hold that administrative convenience in this matter has been attended with serious loss to municipal revenue, and, if I make good that ground, I think I shall have established my case.

"After all, Sir, finance is the touchstone of all administration. If we find that in consequence of any law the receipts in respect of any matter have fallen off, we are bound to change that law; and I think I shall be able to demonstrate almost with mathematical precision that, in consequence of the enactment of this provision in the law of 1888, there has been serious financial loss—a serious diminution of the revenue, unrealizable from bustees. I beg to refer you to a discussion which took place at a meeting of the Bill Committee. The Bill Committee say in a report which they have addressed to this Government:—

'The Corporation has on an average paid to the owners of bustee lands about ¾ths of a lakh of rupees every year for the last nine years by way of compensation.'

"That is to say, the landlords collect the rates from the hut-owners, and they get 12 per cent. as a charge for such collection, and this part of the statement refers to that collection. At the same time, the collection of the rate which, before the Act of 1888, was upwards of 90 per cent. of the gross annual demand, without the employment of any coercion, has since then never reached 85 per cent. That this falling off is to a great extent due to the change of law in regard to the payment of bustee-rate bills will be amply borne out by the statement of collections set forth in the Proceedings of the 14th Meeting of this Committee. That statement shows that while owners of house-property have, since 1890-91, paid on an average nearly 90 per cent. of their

due without any coercion, the average collection of bustee consolidated rate has not exceeded 72·55 per cent., and that while the percentage in the former case, shown by the Joint-Collector, was never less than 90·97 during the last six years, and in one of these years was so high as 93·3, the percentage in the latter case within the same period was never higher than 74·72, and in the year just expired was so low as only 61·85. Before the Act of 1888 the collection of bustee rates was 90 per cent. of the gross annual demand without recourse to my process of coercion. Since the enactment of the law of 1888 it has fallen below 90 per cent., and has never reached 85 per cent.

"I was a member of the Bill Committee, and I attended every meeting of the Committee. We called the Joint-Collector and the Collector to be present at a meeting of the Committee when this matter was discussed, and we recorded what they said, and we placed on the record also a very important statement which was submitted by the Joint-Collector. I will read an extract from the proceedings of the Committee. Mr. O. C. Dutt said:—

'He could give no information as to the falling off since the passing of Act II of 1888 in the collections from bustee tenants, because separate accounts were not kept of rates paid by tenants and owners prior to 1889, respectively. They were all included under the head of "house-rate." The percentage of collections before the amalgamation was higher than after it. There were no separate figures, and, therefore, it was impossible for him to give details. Before the amalgamation the highest percentage of collections of the house-rate was 92 per cent.; after the amalgamation it fell to 85, and that was principally due to the non-realisation of bustee bills. The Act of 1876 afforded greater facilities for the realization of bustee rates.'

"That is the evidence of the Collector, but the evidence of the Joint-Collector, who, I believe, has to deal with a larger number of bustees, is even more conclusive. Let me read to you the evidence and the figures which were adduced by the Joint-Collector. The Joint-Collector (Babu Aughore Nath Mukerjee) said that the collections from bustees had fallen off very much from what it used to be under the old system. Under the former law he collected from 88 to 90 per cent. of bustee bills. I shall ask the indulgence of the Council to allow me to read some of these figures, because they forcibly illustrate the point which I am endeavouring to lay before the Council, namely, that the municipal revenue has suffered distinctly by reason of the change of the law of 1876 and the substitution of the provisions which I beg to challenge. In 1890-91 the owner's share as collected by the Collector was 87·54 of the entire collections and the occupier's share was 83·81 per cent.

[*Babu Surendranath Banerjee.*]

What was the share realized from the bustee people? Eighty-seven per cent. is the percentage of the owner's share, 83 the percentage of the occupier's share; the percentage represented by the realization of the bustee bills came up to 74 per cent. And, Sir, you find this all along year after year. Let me read the figures in the statement:—

Percentage of collections, owner's and occupier's share and bustee land, from the year 1890-91 to 1897-98.

YEAR.	Nature of rate.	Collector.	Joint-Collector.
1	2	3	4
1890-91 ...	Owner's share ...	87·54	76·96
	Occupier's share	83·81	77·20
	Bustee land ...	74·38	62·65
1891-92 ...	Owner's share ...	89·25	79·38
	Occupier's share ...	86·37	80·53
	Bustee land ...	78·40	64·62
1892-93 ...	Owner's share ...	91·60	90·97
	Occupier's share ...	89·83	89·61
	Bustee land ...	79·56	74·72
1893-94 ...	Owner's share ...	91·58	92·79
	Occupier's share ...	89·50	77·42
	Bustee land ...	77·71	70·83
1894-95 ...	Owner's share ...	91·58	92·65
	Occupier's share ...	89·83	86·61
	Bustee land ...	77·82	68·55
1895-96 ...	Owner's share ..	91·58	93·30
	Occupier's share ...	89·56	88·12
	Bustee land ...	79·30	68·58
1896-97 ...	Owner's share ...	92·36	92·99
	Occupier's share ...	90·48	87·99
	Bustee land ...	80·78	63·95
1897-98 ...	Owner's share ...	91·06	91·80
	Occupier's share ...	88·41	91·69
	Bustee land ...	77·15	61·85

"I find Babu Preo Nath Mullick making the following observations in the course of the discussion which took place, and I think it is as well that I should lay them before the Council—

'Babu Preo Nath Mullick remarked that when the new procedure was instituted a memorial was submitted to Government for its reconsideration, and praying that the Bill might

be vetoed. That prayer was not acceded to on the ground that the result of the working of the law should be seen. Another application was made four years subsequently, and the reply was that it would be considered with any future proposals for the amendment of the law.'

"Your Honour was pleased to intimate yesterday your approval of the appointment of a Commission to enquire into the question of the assessment of residential houses. I think, Sir, it would not be out of place to extend that enquiry somewhat and include this particular matter to which I have called Your Honour's attention. The people feel a grievance in this respect, the landlords feel a grievance, the tenants feel a grievance; and as I go on, Sir, I hope to be able to point out that the present law is unjust to the landlord and the tenant alike. That being the case, it is right and proper that the Commission should extend its investigation to this particular matter in regard to which there is a serious grievance.

"Let me now approach the consideration of the second ground on which the change of the law was justified in 1888. It was then said that it was desirable to keep the municipal underlings away from the poor people who inhabit the bustees. As a matter of fact, have you succeeded in completely keeping away the municipal underlings from the poor residents of bustees? Even in regard to bustee rate bills, when you are not able to realize them, as you are not able to realize them in the case of minors or of zanana ladies, or of landlords who do not live in town but in the mufassal—in the case of these persons you send your peons with a distress warrant to realize your dues from the inhabitants of these bustees. Therefore you have not been able completely to keep out the municipal underlings from the poor people who inhabit these bustees. Nay, more, you have substituted a worse class of people than the municipal underlings, who are at any rate responsible to somebody. You have substituted unscrupulous agents, in some cases the unscrupulous agents of the unscrupulous zamindar in the place of the responsible agents of the Municipality. The License Officer's peons visit the poor people in the bustees; the Health Officer's peons, the conservancy peons—they all pay their daily visits and pocket their daily perquisites. Do you seriously aggravate the situation if you send one more peon to pay his visit? I have already observed that the law involves injustice to the tenant, injustice to the landlord; and I may say—and it is one of the strongest grounds upon which I put my case—that it involves injustice to the

tenants in this way: that unscrupulous landlords and their still more unscrupulous agents sometimes realize from the tenants a great deal more than the dues of the tenants. The tenants do not know what they have to pay. They have little conception of their liabilities, and the result is that these unscrupulous agents approach them and extort from them as much money as they can. Therefore, looking at the matter from this point of view, the Council is bound to hold that the law involves a great injustice to a class of people who ought to be protected by the Government against all acts of injustice and oppression.

"I venture to think it also involves a grave injustice to the landlord. In many cases the tenants will not pay their dues. The landlords have to pay their dues in advance, and these dues are not all realized from the tenants.

"Therefore, Sir, looking at the matter from the point of view of the great injustice that is done to the landlords and tenants alike, looking at the matter from the point of view of the loss to the municipal revenues, it seems to me that a strong case has been made out for the modification of the law upon the lines of the old law of 1876. I await with some anxiety the decision of the Council on this matter."

The Hon'ble MR. APCAR said:—"I wish to ask the Hon'ble Member what his meaning is. Does he mean that the owner shall pay on the valuation of the hat as well as of the land? As the amendment runs it seems to me that what is asked for is that half of the entire consolidated rate imposed on bustee land and on the hut shall be paid by the owner. The hut does not belong to the owner of the land."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Under the Bill half the consolidated rate has to be paid by the owner and the other half by the occupier."

The Hon'ble MR. BAKER said:—"I am opposed to this amendment, and I hope to be able to convince the Council, and perhaps even the Hon'ble Member, that the course followed by the Select Committee was an eminently fair, safe and reasonable one.

[*Mr. Baker.*]

"To show the grounds on which the arrangement in the present Act was supported, I will read the Council the following extract of paragraphs 46—50 from a memorandum recorded by Sir Henry Harrison in 1890 on this subject:—

Former bustee system explained.

'46. The bustee tenure is one in which the landlord allows the tenant to build at his own expense a tiled hut on his land, and to pay him ground-rent for the use thereof. The tenant has no security of tenure, and can be turned out at a month's, if not a moment's notice. Under the old law in Calcutta the landlord had to pay the owner's rates on the land, which was assessed under one number. Each hut on it was separately assessed, the hut-owner paying the occupier's rate on the bit of land occupied by him and the owner's and occupier's rates on his hut. Thus, if a bustee had 20 huts on it and its number was 50, Beadon Street, the huts would be 50H. 1, 50H. 2 .....50 H. 20, there being in all 21 separate assessments. If in the middle of the year another hut was added, it would become 50H. 21, and the rental of the original number must be modified also. Thus the municipal staff had for this one plot of land this one number to collect 61 separate bills from 21 different persons, 60 of which were recovered direct from the hut-owners. In the Suburbs the case was worse, because there the hut-owners were compelled to pay for the ground-landlord as well, with a right of recovery of the amount from him! I have made careful enquiries, and cannot hear of a single case of such recovery.

'47. Under the new law a single assessment is made of the plot of land belonging to each landlord. To this is attached a schedule of all the huts on the land and of the valuation of each, that both landlord and tenant may know the precise sum recoverable by the former. From these valuations a deduction of 10 per cent. is allowed for repairs, and the landlord is allowed 2 annas in the rupee for collection expenses and other losses. The assessment now made holds good for the year, the landlord getting the benefit of new huts and having to pay the rates of any that are removed. At the end of the year either he or the Municipality may insist on a re-valuation, but, if neither do so, the old valuation may continue from year to year. A single bill is made out against the ground-landlord for each quarter.

New measure justified as a matter of public policy.

'48. The main object of this provision is administrative efficiency and the putting a restraint on the ill-treatment of a class little capable of defending themselves; and it is on this ground that I would most earnestly deprecate any reversion to the old system. At the same time I am quite prepared to defend it on the ground of equity also. It is well known that it has been introduced into England for the very same reason, where it has been the law since 1869. All rates in England, with very rare exceptions, are payable by the occupiers; but by 32 & 33 Vict., cap. 41, it was prescribed that whenever a holding was valued at less than £20 in the Metropolis, £13 in Liverpool, £10 in Birmingham or Manchester, or £8 in any other parish, the parish authorities might rate the *owners instead*

[*Mr. Baker.*]

of the occupiers, giving them an allowance of 15 per cent. The object of this is precisely the same as that of the present Act, *viz.*, to keep the collecting establishment of the Municipality away from the very poor and defenceless. If needed in England, it is needed ten times more in Calcutta, where this is the class habitually most oppressed and most silent under oppression. Under the old law the number of warrants issued in Calcutta annually was between 30,000 and 40,000, the great bulk of course in connection with these poorer rate-payers,—100 warrants a day, yet who heard anything of them! Under the new system a single warrant has been issued against a wealthy ground-landlord, who, with ample means, was openly defying the law, and the whole of Calcutta rings with the event, and a suit in the High Court is the result. Is any comment necessary on such a contrast?

'49. It may be said, however, that as the hut-owners will have to deal with the landlords' agents, they will be worse off than if they had to deal with the municipal underlings; but this is an untenable objection. The hut-owners must, under any circumstances, be brought into contact with the ground-landlord's collecting sarkar. If he is unprincipled, he can worry the tenants in the collection of rent quite as much as in the collection of rates. Moreover, if the new law is retained, it may be anticipated with confidence that in a very short time the rates *will be included in the rent*. The landlord will say: "I will pay your rates; you pay me Re. 1-12 instead of Re. 1-8 a cottah ground-rent," as they frequently already do in the matter of tenanted houses. When this is brought about, the object of the new legislation will be fully attained. I have no doubt that, if the Government will only support this provision of the new Act, the benefits resulting from it, in a few years, will be most conspicuous. As a very experienced officer of the Corporation said to me the other day, you may almost close the Warrant Department.

But also perfectly equitable.

'50. But it is urged that the provision is essentially unjust to the ground-landlord, and therefore, however beneficial the results may be, justice ought not to be sacrificed to them. And the distinction pointed out by Sir Charles Paul is approvingly quoted, that in England the owner is made liable for his own property, but in Calcutta he is made liable for the rates of the huts of which he is not the owner. I have the greatest possible respect for Sir Charles Paul's opinion, and he rendered most valuable assistance in carrying through the assessment clauses of the new Act; but in this instance I must be allowed to adhere to my own judgment. The bustee-owner is the sole and only proprietor of the holding. He has surrendered nothing of his proprietary rights—not even a six months' tenancy. To call the hut-owner who can be expelled at a moment's notice an owner, is surely a euphemism. He owns nothing but the bamboos and tiles of his hut. The ground-landlord invests no capital in the bustee (except perhaps for drainage), he risks nothing, he ventures nothing, and he appropriates all the profits of the municipal improvements! The value of bustee land since the bustees have been improved by the Corporation have had roads made through them, bathing-platforms erected in them, and their conservancy attended to, has gone up from 50 to 300 per cent.

[*Mr. Baker.*]

At a most moderate computation the ground-rents of bustees in Calcutta have increased by five lakhs annually during the last six or seven years. The landlords have literally grown rich in their sleep. And can they, forsooth, complain of injustice at the hands of the Corporation, because for the well-being of the community they are required, as in England, to advance the rates for poor tenants?'

"Now, Sir, in so far as the reduction in clerical labour is concerned, Sir Henry Harrison's arguments are as valid and powerful to-day as they were ten years ago. The collector of municipal taxes reported to the Corporation last year that, if bustee rates were to be collected direct from the tenants, the number of quarterly bustee bills would be multiplied by 10. Instead of issuing 7,000 bills each quarter, they would have to issue 70,000! All this enormous labour and expense are being saved to the Corporation. And, again, the bustee tenants themselves have gained the full advantage anticipated by Sir Henry Harrison in being freed from the visits of the municipal tax-gatherers and underling. This was a matter on which Sir Henry Harrison laid great stress, and the importance of which will be readily appreciated by any one who knows much of the *bustee-wallahs*, how poor they are, how illiterate, and how little able to protect themselves. These great and unquestioned benefits—benefits alike to the Corporation and to the tenants—ought on no account to be surrendered lightly or without convincing proof that we are paying too high a price for them.

"But in another respect it must be admitted that Sir Henry Harrison's anticipations have not been realized. He hoped that by making the bustee-owner responsible for the bustee-rates the collection of these rates would be greatly facilitated; that payments would be recovered from the landlords with ease, and that it might almost become possible to close the Warrant Department. Now, whatever the cause may be, it is clear that these fair promises have not been fulfilled. I will not go over again the figures which the Hon'ble Member has laid before the Council. To some extent they do not give quite an accurate description of what has happened. But, without scrutinising them too closely, I am prepared to admit that, at all events in the suburban bustees, the percentage of collections is very poor: it is lower than it was under the former law, and is not perceptibly improving.

"This state of things is, I admit, a reason for considering our position, and the next step would naturally be to enquire what are the causes of the disappointing collections. And it is just at this point that the arguments for the

amendment are defective. I have read carefully the remarks of the Bill Committee on this matter, and I have listened attentively to what the Hon'ble Member has said to-day. But in neither the one nor the other can I find any kind of attempt to show that the bad collections are due to the change in the law. Both the Corporation and the Hon'ble Member content themselves with showing that the collections have been poor; and they both assume that this is due to the change in the law. It is a case with them of *post hoc propter hoc.* But, Sir, it is quite unsafe to make any such assumption. We must have some definite evidence to go upon before we abandon the present system as a failure, and revert to the older law. There are other causes, besides the change in the law, which have been in operation since 1888. It is notorious that the Warrant Department, till recently, has been utterly inefficient and most probably corrupt, and it is the opinion of the Vice-Chairman, a very competent officer, that this is one of the main causes of the bad collections. Again, it frequently happens that the owner of a bustee does not live within it, but has his residence elsewhere. The effect of this is that the Chairman has no power to cut off the water-supply from the bustee-owner's own house for failure to pay rates. This power is one of the most efficacious modes of enforcing payment of rates that the Chairman possesses, and it is obvious that the want of such a power in the case of most bustees must have affected the collection of bustee-rates.

"I am not prepared to say positively that the bad collections are wholly due to these two causes. The truth is that there is something wrong in the collection of bustee bills, and neither the Corporation nor any one else has yet succeeded in getting to the bottom of it.

"In these circumstances, it seemed that the safest course was to provide an alternative procedure for bustees, and to this the Hon'ble Member has made no allusion whatever. What we have done is to retain the system of the Act of 1888, and simultaneously to provide that the Chairman and the General Committee should have power to withdraw any bustee from it and place it under the operation of the old system which is advocated by the Hon'ble Member. This course commended itself to the Select Committee, who made the necessary provision by inserting section 162A in the Bill. I venture to think that this course is eminently wise, safe and judicious, and I trust that it will commend itself to the Council, if the Hon'ble Mover elects to press his amendment.

[*Mr. Baker; Mr. Oldham; Mr. Bolton; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

"Once the dual system is given a trial, and both systems are worked side by side for some years, we shall be in a position to see whether the falling off in the collection of bustee rates is due to the alteration made by the law of 1898. Until that is established by experience it will be most unsafe to assume that the law of 1888 is in fault."

The Hon'ble Mr. OLDHAM said:—"While my hon'ble friend the mover of the amendment read out his long list of figures for eight years, I could not help reflecting how seriously they took away from the declaration which I made in this Council, that I did not join in the indictment against the Corporation, because I think those figures in themselves form a formidable indictment against the Commissioners. There is scarcely a Member of this Council who has not had practical experience of the collection of rents, and who cannot realize what those figures mean. Bustee-owners are rich: bustee-inhabitants are poor. Your bustee law is changed and the procedure is converted from collecting from 70,000 bustee-inhabitants, who are poor, into collecting from 7,000 bustee-owners, who are well to do. Nevertheless the collections become less, and in one year sank so low as 60 per cent. There can be only one reason for this."

The Hon'ble MR. BOLTON said:—"It occurred to me during the speech of the Hon'ble Mover of the amendment that a compromise might be effected by allowing for bustees the special procedure of collecting the rates to which objection has been taken, or the ordinary procedure applicable to the rest of the town, the option of using either being left to the Chairman. I am glad to find that provision has been made for this alternative procedure in the Bill. It seems to me, therefore, that the Bill meets adequately the object of the amendment. After experience of the working of the two procedures, it will be possible to decide finally which procedure is the more suitable for bustees, and should be generally or exclusively followed."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I support the amendment on the ground that it is a matter of great injustice to the owners of bustees to be called upon to pay also the occupier's share of the municipal rates. There will be no loss to the Municipality if the rates are levied directly from bustee-tenants. The Municipality has ample power to realise its dues, whereas it is very difficult for private parties to do so, for they must have

[*Raja Ranajit Sinha, Bahadur, of Nashipur; Babu Surendranath Banerjee.*]

recourse to law, and the owners therefore are losers by having to pay their tenants' rates and recover them afterwards by process of law, as all the expenses incurred in litigation cannot be recovered."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I must admit that it was an omission on my part not to refer to the provision in this Bill which empowers the Chairman, with the sanction of the General Committee, to exempt any bustee from the provisions for the recovery of bustee-rates. I acknowledge that that is a distinct improvement in the Bill, and its introduction very clearly shows that the Select Committee felt that the bustee provisions of the Act of 1888 have not worked well. I have only to express the hope that the Chairman of the Corporation will see fit to freely make use of this alternative procedure. I can only wish that the initiative in the exemption of bustee-owners from the ordinary bustee procedure was given to the Corporation; for, as the Corporation represents the people and comes freely into contact with them, the Corporation would be in a position to administer this part of the law with much greater success than the Chairman and the General Committee; and I appeal to the Hon'ble Member in charge of the Bill to consider this point. The new provision to which my hon'ble friend has referred, I thankfully admit, is a distinct improvement. In the course of the observations which the Hon'ble Member made he was pleased to remark that there had been deterioration in the collection of bustee-rates, but that it was difficult to ascertain the cause, and that it was possibly due to the inefficiency of the Warrant Department and possibly to the defect in the law which did not empower the Corporation to cut off water-connections. But with equal justice and show of reason I might assume that it was possibly due to a defect in the law, and I believe that is the opinion of all experienced Commissioners. It is their deliberate opinion that it is the defect in the law which is responsible for the deterioration in bustee-collections. My hon'ble friend observed—and here again the observation supports my contention—that the landlords under the operation of this law will be disposed to exact higher rates from their tenants than they pay to the Corporation on their account. Is not that a grave injustice to the tenants? The poor people don't know what rates they have to pay; they are absolutely at the mercy of their landlords. I certainly think that involves very great hardship upon the poor."

[*Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"We made provision for that in the Select Committee; notices are to be posted within the bustee of the valuations which have been made."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The rates payable by each tenant must be calculated upon the valuations which have been made: will these poor people be able to make the calculations? I say they will be completely at the mercy of their landlords. The most simple and most effective way would be to go straight to these poor people and present a bill to them, instead of leaving the landlord to collect the rates from them. It is obvious that the present law does involve injustice, and, notwithstanding what Sir Henry Harrison has said, I ask the Council to reverse his judgment and to re-enact the law of 1876."

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the word "five" be substituted for the word "ten" in line 3 of clause (*c*) of section 159 (*now* 180).

He said:—"I am not aware that the Hon'ble Member in charge of the Bill has any serious objection to this amendment."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has treated this amendment as an alternative to his previous motion, which has just been negatived."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It is not an alternative."

The Hon'ble MR. BAKER said:—"Ten years is the term in the present Act, and I don't think it ought to be reduced without any special reason. I have consulted the Chairman of the Corporation, and he thinks it would be dangerous to accept this amendment. If you exclude from the operation of the bustee law any masonry building in a bustee built on land let for a term of five years, there would be a risk of excluding many more buildings than we anticipate. Landlords may object to give leases of ten years, but they might give leases of five years and one day. For this reason I am not in favour of this amendment."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"Mr. Bright's opinion ought to carry great weight, but I think the opinion of experienced Commissioners is entitled to some little consideration also. Bustee-owners seriously object to allow people to build masonry buildings in their bustees, and if they allow them to construct masonry buildings and give them leases for five years for the erection of such buildings, such buildings ought to be considered as being exempt from the operation of the bustee law. I understand the *raison d'être* to be this, that the bustee procedure is to be retained where the landlord can be found and you can realize the rates from him. Tenants remove from place to place, but, if a tenant has built a house in any particular bustee on a lease of five years, he ought to be treated as a sort of permanent resident; he has not the same sort of floeting interest as a bustee-tenant has, and therefore a person building a pucka house on bustee-land having a lease of five years ought to be exempt from the operation of the bustee procedure.

"The Hon'ble Member in charge of the Bill referred to Mr. Bright's opinion; but has Mr. Bright given any facts to show that there will be any loss of revenue or any administrative difficulty? It is his mere *obiter dictum*, but I think that the opinions of experienced Commissioners whom we have consulted should also be entitled to some weight. And further there is that ground which I have submitted, namely, that a person having a lease for five years who builds a masonry house on the bustee-land should be considered a permanent resident."

[*Mr. Baker; Babu Surendranath Banerjee; Babu Jatra Mohan Sen.*]

The Hon'ble MR. BAKER said:—"I am not prepared with any facts or figures, because I had not the smallest idea that anybody would question Mr. Bright's statement, and there is nothing in support of this amendment in the report of the Corporation or in any of the papers on the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I raised the question in the Select Committee."

The motion was then put and lost.

SECTION 187.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 164A (*now* 187), sub-section (2), lines 4 and 5, the words "shall be repaid or refunded to the objector or allowed to be set off against any present or future demand of the Corporation against him under the provisions of this Act" be substituted for the words "shall be repaid or allowed."

The motion was put and agreed to.

The Council was then adjourned to Wednesday, the 20th September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Asst. Secy. to the Govt. of Bengal,
Legislative Dept.

Reg. No. 783G—300—21-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Wednesday, the 20th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHPIUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.E.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

THE CALCUTTA MUNICIPAL BILL.

SECTION 189.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 184 (*now* 189*), the words "in advance" be omitted.

He said:—"This is merely a verbal change, and I was not a little surprised to hear from one of my Hon'ble friends this morning that he had

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker; Babu Boikanta Nath Sen.*]

taken it to be a very substantial change. It is really nothing of the kind. Section 184 (*now* 189) provides that 'the tax shall be payable half-yearly in advance.' Section 185 (*now* 191) fixes the date on which the sum is to be paid, and it seems to me that, if the amount due for the half-year commencing on the first day of April may be paid on the 30th of April, it is not a very correct description to say that the tax is payable half-yearly in advance. It will be quite open for the rate-payer to pay the tax at least thirty days after the half-year has begun, and therefore I think the words 'in advance' may be omitted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I want to say just one word in reference to my hon'ble friend's amendment. You have got those words in the law, and, if you omit them, people will come to the conclusion that the taxes are not to be paid in advance. They will say: 'The Legislature has not insisted upon our paying in advance, and why should we do so?' I think it is most essential that the words should be retained. When people are called upon to pay in advance, they pay during the half-year or during the quarter. When they are called upon to pay in arrears, they pay very much later and sometimes don't pay at all; and, having regard to the fact that the omission of these words is likely to lead to misapprehension—my friend shakes his head; he is a sound and an able lawyer, but we are not all lawyers, and people will take a common-sense view of the law and will say that they are not required to pay in advance; they therefore will not do so, but pay in arrears. Taking a common-sense view of the matter, I decidedly think that the words ought to be retained."

The Hon'ble MR. BAKER said:—"I agree with the Hon'ble Babu Surendranath Banerjee's view. I think that to omit these words would cause misapprehension in the minds of the public. There is no doubt this tax ought to be paid in advance, and that intention is made perfectly clear by the use of these words."

The Hon'ble BABU BOIKANTA NATH SEN said:—"From a lawyer's point of view section 184 (*now* 189) is the substantive law, and section 185 (*now* 191) is only the adjective law; therefore, in my opinion, the words should be allowed to remain."

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker; Mr. Mackenzie.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"It seems to me, Sir, that we are not very consistent. If under section 149 (*now* 171) there is no misapprehension, I do not see that there can be any possible misapprehension here. I think that, by omitting the words 'in advance,' we might bring the two sections into harmony."

The motion was then put and lost.

SECTION 198.

The Hon'ble BABU SURENDRANATH BANERJEE moved that, for the words "in his discretion" in lines 1 and 2 of the proviso to section 206 (*now* 198), the words "with the previous sanction of the General Committee" be substituted.

He said:—"Sir, I will explain what I mean. The proviso gives to the Chairman the power of refunding licenses under certain conditions. I suggest that the power should be exercised subject to the approval of the General Committee. If my hon'ble friend objects to that, I would say that the power should be exercised subject to an appeal to the General Committee. These are delicate matters, and all of us have our likes and dislikes, and the personal element ought to be eliminated as far as possible. It seems to me that it would be wiser in a matter like this that there should be some sort of control exercised by the General Committee. Of course we know that the Chairman will do his duty. I have not the slightest desire to suggest that he would do anything else but his duty. It is, however, advisable that there should be a safeguard against the play of personal feelings, and it was this idea which suggested to me the idea of recommending this amendment."

The Hon'ble MR. BAKER said:—"If the Hon'ble Member will omit the word 'previous,' I am quite ready to accept his amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Yes, I am quite ready to omit the word 'previous'."

The Hon'ble MR. MACKENZIE said:—"I should be against this on the ground that applications might be made to the Chairman individually by persons who might not care to make applications to the General Committee. That is to say, disclosures might be made about business in a private way to the Chairman, which the applicant would prefer not to make to the General Committee."

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Mackenzie; Mr. Apcar.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think that objection is met by the omission of the word 'previous'."

The Hon'ble MR. BAKER said:—"I was going to say the same thing. The matter in that case would be subject to the control of the General Committee. The General Committee will have power, under the amendment I moved the other day, to insert a new section, section 24A (*now* 16), to look into and revise the Chairman's orders upon any particular case. But they may, and doubtless will, authorize the Chairman to anticipate their approval, and in that case a mere subsequent report will be sufficient. In that case I think it will probably be found that, in the class of cases to which the Hon'ble Member refers, it will not be necessary for the General Committee to have all the facts before them; a mere report will be sufficient."

The Hon'ble MR. MACKENZIE said:—"Yes, I accept that."

The Hon'ble MR. APCAR said:—"I don't quite follow how this section would be worked. Is it intended that there shall be an appeal to the General Committee?"

The Hon'ble MR. BAKER said:—"No; the action would be subject to their sanction."

The Hon'ble MR. APCAR said:—"I understand there will be something like three or four thousand cases coming up in regard to this matter, and, if these are all to come up before the General Committee, they will constitute an enormous burden in addition to the other work of the General Committee."

The Hon'ble MR. BAKER said:—"I think, Sir, it is desirable to give some power to the General Committee in this matter. If the Hon'ble Mr. Apcar will look at clause (*c*), he will see it is there provided that the Chairman may, *in any other case*, exempt any person from liability to take out a license, or may authorize him to take out a license in a lower class. That is rather a large power of discretion to give to the Chairman alone. Therefore, I welcome this amendment."

The Hon'ble MR. APCAR said:—"It must not be understood that I am opposed to an appeal to the General Committee. I only wish to draw attention

[*Mr. Apcar; the President; Mr. Baker; Mr. Bolton.*]

to the actual facts, in order that they may be before the Council in the discussion on this matter. That these cases should come up to the General Committee I think is a very necessary provision. I would not like to give absolute powers in any such matters to any one individual. But, if they all are to be brought up before the General Committee in the ordinary routine of work, I would draw attention to the very heavy additional burden which would, in that case, devolve upon the General Committee."

The Hon'ble THE PRESIDENT said:—"They are subject to the control of the General Committee."

The Hon'ble MR. BAKER said:—"Under my amendment carried the other day, the General Committee will have the power to authorise the Chairman to anticipate their sanction in any class of cases they think proper. Those matters, although very numerous, will simply come up, I think, in a routine way as a matter of report. It will not materially add to the work of the General Committee, and I think the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Apcar himself will bear me out in this with their experience of the working of the Corporation."

The Hon'ble MR. BOLTON said:—"I am disposed to think, Sir, that the best course would be to provide that the Chairman shall furnish brief particulars of all the cases to the General Committee, with the reasons for his action. The General Committee then might or might not, as they think proper, call on him for an explanation in particular cases. To subject all these cases to the orders of the General Committee seems to me to be very unnecessary."

The Hon'ble MR. BAKER said:—"That, Sir, is really not by the amendment carried the other day. The effect of that amendment would be to permit the General Committee to lay down rules that in cases of this kind or in similar classes of cases the matter has only to be reported to them afterwards. That was the express object with which that amendment was brought forward. It meets the whole point raised by the Hon'ble Mr. Bolton."

The motion was then put and the amendment was agreed to in the altered form.

[*Babu Surendranath Banerjee; Mr. Baker.*]

SECTION 203.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "rates" in line 8 of section 211 (*now* 203) the following words be inserted:—

"or, where no rates are mentioned, at such rates."

He said:—"The object of this amendment is to provide that the municipal revenue does not suffer any loss, and I think my hon'ble friend will agree with me when I have stated the facts of the case. May I ask the Council kindly to turn to Schedule VIA (*now* IX). The Council will find that this is a schedule which deals with the 'scavenging tax,' and, Sir, the amendment of which I have given notice deals with the rectification of an omission in connection with this schedule. Owners of bazars and markets pay this scavenging tax at the present moment, and a very considerable share of the tax is derived from them. I have ascertained from the Municipal Office that the amount of the tax to be paid by the owners of markets and bazars cannot be laid down in any workable and practical shape. I think it would be best settled by bye-laws. Therefore, Sir, I say that the rates are to be the rates such as are fixed in the schedule or, where no rates are fixed in the schedule, such rates as have been prescribed by bye-laws made under this Act. The object is to improve the municipal revenue, or at any rate to see that the municipal revenue now obtained is not lessened by any law which we may now pass. I think my hon'ble friend has himself given notice of a similar amendment. Owners of markets and bazars pay the scavenging tax, and there is no reason why they should not continue to pay it. If you cannot lay it down in the schedule, it must be determined by bye-laws or by private arrangement. The present practice is for these rates to be determined by private arrangement."

The Hon'ble MR. BAKER said:—"The intention of the section is exactly the intention of my hon'ble friend. In the first instance, the rates to be paid by these people are to be the rates specified in the schedule; if there are no rates specified in the schedule against any particular case, then they come under the operation of rates to be prescribed by bye-laws. The addition of these words will make no difference either way. I have asked the Secretary of the Council, and he says the addition of these words will have no effect on the meaning of the section as it stands at present."

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya; the President.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have consulted some friends, and they are of opinion that there has been an omission."

The Hon'ble MR. BAKER said:—"Does the Hon'ble Dr. Asutosh Mukhopadhyaya think the words ought to be inserted?"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The proposed addition is wholly unnecessary. The section is quite clear as it stands."

The Hon'ble MR. BAKER said:—"The learned Doctor agrees with the Secretary."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The lawyers of the Council think it is not necessary, and I defer to their opinion. I am not entitled to hold my opinion against theirs in matters of this description, and I therefore withdraw my amendment."

The motion was then, by leave of Council, withdrawn.

NEW CHAPTER.

The Hon'ble THE PRESIDENT said:—"With reference to a new amendment of which notice has been given by the Hon'ble Babu Surendranath Banerjee, although I do not wish to enter in any way into the merits of the proposition or to offer any comments upon it at the present moment, I think the Hon'ble Member will himself see that the Council cannot adopt a proposal of the kind without reference to the commercial bodies which are interested in it. He must be aware also that a system of taxation like this cannot be enforced without penalties, for which we must get the approval of the Government of India, and therefore, without any expression of opinion as to the merits or the demerits of a system of town-dues, I regret I cannot admit this amendment at this stage."

The Hon'ble THE PRESIDENT ruled the following motion, standing in the name of the Hon'ble Babu Surendranath Banerjee, to be out of order:—

That the following sections be inserted in the Bill:—

CHAPTER XVIA.—TOWN-DUTY.

"216A. (*1*) With the previous sanction of the Local Government, the Corporation may, by resolution adopted at a special meeting, by a majority of not less than two-thirds of the [Bom. s. 192.]

members present at such meeting, impose a town-duty and make rules for the levying of such town-duty on such articles as the Corporation may from year to year determine, when the said articles are imported from any place into Calcutta.

(*2*) The said duty shall not exceed 2½ per cent. of the market value of each article.

of "216B. The General Committee shall cause tables of the town-duties for the time being leviable, specifying the rates at which and the articles on which the same are leviable, to be printed in the English, Bengali, Hindi and Urdu languages, and to be affixed in a conspicuous position at every place at which the said town-duties are levied. [Bo s. 193

irti- "216C. (*1*) No town-duty shall be leviable on any article which, at the time of its to importation, is certified by an officer empowered by the Local Government in this behalf rom to be the property of the Government. [Bo s. 19

(*2*) If any article on which town-duty is paid is imported under a written declaration, signed by the importer, that such article is being imported for the purpose of fulfilling a specified contract with the Government or otherwise for the use of the Government, the full amount of the duty paid thereon shall be refunded, on production at any time within six months after importation, of a certificate signed by an officer empowered by the Local Government in this behalf and certifying that the article so imported has become the property of the Government.

duty "216D. (*1*) When any article upon which town-duty has been paid is exported from Calcutta, the full amount of the duty so paid shall, subject to the provisions hereinafter contained, be refunded. [s. 1

(*2*) Such refunds shall be made under such rules as the General Committee, with the approval of the Corporation, may make in this behalf.

(*3*) Provided as follows:—

(*a*) no refund shall be made unless the same is applied for within one month from the date of exportation;

(*b*) no refund shall be made of any amount less than five rupees;

(*c*) no rule framed by the General Committee under this section shall have effect unless and until it is approved by the Corporation and confirmed by the Local Government."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I bow to that decision, Sir. May I be permitted to say just one word by way of explanation. I found on going through the report of the Building Commission that they made a strong recommendation in favour of a system of town-duties. They say that the 'imposition of an octroi-duty ought to be taken into serious consideration.' In Bombay, Madras and the North-West Provinces octrois are in force, and it

[*Babu Surendranath Banerjee; the President; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

struck me that if we had an octroi here it would be an excellent means of raising revenue. The mercantile community who are going to have a predominant share in the municipal system of the future would also, as I think they justly should, in a system of octroi-duties, have to pay a predominant share of the rates and taxes. That was my reason for making the proposal."

The Hon'ble THE PRESIDENT said:—"That may be so, but we cannot go into the matter now."

SECTION 211.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220 (*now* 211), sub-section (2), before the word "Magistrate," the words "Presidency or Municipal" be inserted.

He said:—"The sub-section says 'if any cart or animals so seized be not claimed within ten days, it or they may be sold at auction by order of a Magistrate.' The Magistrate of what place? Take the city of Calcutta. We have the Presidency Magistrates in the city proper, in the suburbs we have the Suburban Magistrates, and the Bill contemplates that we should create another class of Magistrates to be called Municipal Magistrates. The question may arise which of these Magistrates has jurisdiction in this matter; to this my amendment affords a simple solution."

The Hon'ble MR. BAKER said:—"I think there is some misapprehension about this. The intention of course is that these carts shall be sold under the order of any Magistrate having jurisdiction in the place where the offence is committed. It might be in Howrah. If the Hon'ble Member looks at section 217 (*now* 208), he will find that this applies to Howrah as well as to Calcutta. It also applies to the Suburbs and the added area, which are within the magisterial jurisdiction of the Police Courts at Alipore and Sealdah. The word 'Magistrate' cannot be qualified as proposed in the amendment."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Then I would suggest that he following words should be put in, 'the order of the Magistrate having jurisdiction in the place.'"

The Hon'ble MR. BAKER said:—"If the learned Legal Remembrancer thinks that an improvement, I have no objection; but I would rather have no change."

[*Babu Surendranath Banerjee; Mr. Bolton; Mr. Handley; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If you look at the present law you will find the word 'Magistrate,' and I don't know if any inconvenience has resulted or any harm has been occasioned by it. I think it is unnecessary to make any change."

The Hon'ble MR. BOLTON said :— "It seems to me quite unnecessary to make any change in the section. The Magistrate would obviously be one having jurisdiction within the town."

The Hon'ble MR. HANDLEY said:—"I think, Sir, as the Assistant Secretary has said, that if you make a change here you will have to make changes in about thirty or forty other places in the Bill. If the words were put in, it would make it clear, but if the Magistrate has no jurisdiction he cannot do anything."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220 (*now* 211), sub-section (3), for "twenty days" be substituted "three months."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 220 (*now* 211), sub-section (3), for the words "paid to the credit of the Municipal Funds" be substituted "the property of the Corporation."

He said:—"I think, Sir, it will be convenient if I take these two amendments together. The intention of the amendments is to bring this section into harmony with section 220K (*now* 221). I cannot persuade myself to believe that it was ever intended that the Corporation should keep a separate account of the proceeds of these sales for ever, and that it should be open to a man to come in after the lapse of any length of time and demand his money. I suggest that, if he does not come within three months to claim the money, it should lapse to the Corporation."

The Hon'ble MR. BAKER said:—"As regards the first amendment the Hon'blo Member proposes to extend the term of twenty days to three months. I would point out that 'twetny days' is the existing law, and that there is no good reason for the change. I have never heard that any inconvenience has resulted from its operation.

[*Mr. Baker; Babu Jatra Mohan Sen; Dr. Asutosh Mukhopadhyaya*].

"As regards the second amendment, I would point out that there is a difference between sections 220 (*now* 211) and 220K (*now* 221). Under section 220 (*now* 211), the sale is made by order of the Magistrate, and the sale proceeds in the first instance remain in his hands. At the end of twenty days, if they are not claimed, the Magistrate must pay them over to credit of the Municipal Fund. But in section 220K (*now* 221), the position in different. There, the sale is made by the Chairman, and the sale proceeds are in his hands. They are credited at once to the proper Municipal Fund, and if there is no claim within three years they become the property of the Corporation. But no actual payment has to be made; it is only a book transaction."

The motions were severally put and lost.

SECTION 213.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 220B (*now* 213), sub-section (3), line 1, the word "one" be omitted.

He said: "Sir, the amendment that I beg to propose is merely a verbal one. Sub-section (3) of section 220B (*now* 213) runs thus:—

'If any one person is liable for the consolidated rate on account of more properties than one [illegible] Chairman may charge to him in one or several bills as the Chairman may think fit the several sums payable by him on account [illegible] such properties.'

"I propose we should omit the word 'one' and make the section read 'If any person is liable,' &c. The reason why I propose this amendment is that in the General Clauses Act the words signifying a singular number include the plural number, unless the text signifies something different. If this word were left in here, there would be confusion, and it might be contended that this word 'person' does not include several persons in cases where several persons are jointly assessed with the consolidated rate. I therefore thought that the omission of the word 'one' would make the section clear."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

SECTION 217.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220F [illegible] after the word "Chairman" be added "to be recorded in writing."

He said:—"I take it, the intention is that the order made by the Chairman should be in writing."

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble Mr. BAKER said:—"I have no objection to this, Sir. I would only suggest that the word 'written' be substituted for 'special'."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I want the word 'special,' Sir, and I may tell you why I want it. In a serious matter like this, the order ought to be a 'special' order. I was always under the impression that the word 'special' covered the proposal of my hon'ble friend. You cannot give a 'special' order surely, except in writing. I have had to administer matters of this description in connection with a mufassal Municipality over which I have the honour to preside. We record a written order, and we put down the name of the officer entrusted with the carrying out of the order. That is the rule. The mere passing of that order suffices: the people know of the existence of the order, and they at once pay up the money. That is the mufussal practice, and it works very well. If you have a 'special' order and then accept my Hon'ble friend's modification, I have nothing to say, but I think the word 'special' covers what my Hon'ble friend proposes. I should certainly be exceedingly unwilling to dispense with the safeguard which the word 'special' provides."

The Hon'ble MR. BAKER said:—"If the Hon'ble Member attaches any importance to it I have no objection."

The motion was then put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220F (*now* 217), after the word "building" in line 5, be added "on the holding in respect of which default has been made."

He said:—"This, Sir, I must confess, is not a simple matter like my last amendment. It is a substantial thing, and I would respectfully ask the Council to consider it carefully. Under the section as it stands in the Bill, it would be quite open to the Chairman to order that the doors of the house of any person be broken open for purposes of distraint, if the Chairman is satisfied that there is reasonable ground for believing that the building contains property belonging to a person who has defaulted. That this is so is clear from section 220D (*now* 215). That section provides that the moveable property of the defaulter may be distrained wherever it may be found, that is to say, if the

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker; Babu Boikanta Nath Sen.*]

property of *A*, who has defaulted, is in my house, it may be distrained. The law goes to that extent in section 220D (*now* 215) and so far it has my entire approval. What I object to is that the law should be carried further so as to authorize the Chairman to break open, for purposes of such distraint, the doors of a house which does not belong to the defaulter. I am not sure that this is intended to be the law; but, if it is, I must say that a provision like this may lead to grave abuses, and enable irresponsible municipal underlings to oppress innocent people. I can well anticipate the objection that a similar provision finds a place in the Bengal Municipal Act. That I cannot admit to be a valid defence; at any rate, I hope that such an argument will carry no weight with my hon'ble friend Babu Surendranath Banerjee, who on a former occasion, when I referred to the Bengal Municipal Act, entered a vigorous protest against what he described as dragging down the Calcutta Corporation to the level of the mufussal municipalities."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I say one word as to the danger of accepting my hon'ble friend's amendment? The danger is this. Property belonging to a defaulter may be secreted in the house of somebody else, and would be so secreted, because he would know that it would be perfectly safe. The section as it stands is the mufassal law, and I may also add that the mufassal law in its practical operation has not been attended with any difficulties at all. We are an exceedingly law-abiding people in the mufassal, and, the moment we find our doors are likely to be broken open, we pay up. I think we ought to have this power of moral coercion which is provided for in the section."

The Hon'ble MR. BAKER said:—"This section was added at the express instance of the Corporation. The amendment as it stands would not only prevent the Corporation from breaking open the houses of any person not a defaulter, but it would also prevent them breaking open a house belonging to the defaulter into which he had removed and secreted property from the holding in default. It would tend entirely to defeat the object of the section."

The Hon'ble BABU BOIKANTA NATH SEN said:—"This amendment may involve the abuse of authority by the officer charged with the execution of the warrant. On the one hand, a man can safely remove his property and thus avoid the execution of the warrant. There is no fear of prosecution against

him. On the other hand, the officer would be liable to prosecution. He would certainly be liable to civil damages, but he might be under certain circumstances liable to criminal prosecution; so this is a safeguard against that. I had the honour to preside over a municipality for about nine years, and I never had a complaint against an officer entrusted with warrants for execution."

The motion was then put and lost.

SECTION 221.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220K (*now* 221), sub-section (3), after the word "shall" be inserted "directly or indirectly."

He said:—"I take this to be the real intention of the law."

The Hon'ble Mr. BAKER said:—"I entirely agree with the Hon'ble Member and accept the amendment."

The motion was put and agreed to.

SECTION 222.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220L (*now* 222), sub-section (4), for the words "next and following payments of his rent" be substituted "rent for the period for which the arrear of consolidated rate was due or the rent of any subsequent period."

He said:—"This is, to some extent, a paraphrase of the language used in the section, and intended to exclude one case in which a dishonest tenant may take advantage of its beneficent provisions. I will illustrate what I mean by a concrete case. A landlord pays regularly the rates due to the Corporation (say) for the years 1896, 1897, 1898. The tenant has been withholding his rent for these years, and as a consequence the landlord breaks down and fails to pay the rates for 1899. The Corporation then issues notices on the tenant, who is thus obliged to pay the rates for 1899. Now, when the tenant pays the landlord the arrears of rent for 1896, he would be entitled to deduct, under the section as it stands in the Bill, the amount of rates he has paid for 1899. This is obviously unjust. He ought not to have this right of set-off till he comes to pay the rents for 1899. If he is himself in arrears, he is not entitled to any consideration; this is the simple equitable principle upon which my amendment is based."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

[*Babu Jatra Mohan Sen; Mr. Baker.*]

SECTION 225.

The Hon'ble BABU JATRA MOHAN SEN moved that, in the last line of section 220-O (*now* 225), the words "damage that they may be legally entitled to" be substituted for "special damage sustained by them."

He said:—"This section gives protection to municipal servants. The general law says that if material irregularities are committed in respect of any warrants or other processes the party thwarting the warrant is not punishable under the criminal law. Here in this Municipal Bill we have given power to municipal officers to enter buildings and premises from sunset to sunrise, whereas in ordinary cases the Court officers are not entitled to enter premises during those hours. In the discussion on section 220F (*now* 217), it was suggested as a safeguard that if an officer entered the house of a third person for the purpose of distress during unauthorised hours he is liable for damages. I think if the word 'special' be allowed to remain in this section it may be contended that actual damage occasioned by the entry of the officer is meant. For instance, if a particular building is trespassed upon by an officer under an illegal order or no order whatsoever from any municipal authority, there is no doubt he is liable for damages, even on sentimental grounds; but if the man has suffered by reason of the breaking open of a lock or of a door he can only sue for actual damages, and not for the loss of honour or other feelings under the present wording of the section. So I think the words I have proposed, *viz.*, 'any damage that they may be legally entitled to,' cover all cases. I therefore suggest that they be added."

The Hon'ble MR. BAKER said:—"I am altogether opposed to this amendment, Sir. In the first place, the wording is not such as could be accepted. The section would run thus:—

'All persons aggrieved by such irregularity may recover, in any Court of competent jurisdiction, full satisfaction for any damage they may be legally entitled to.'

"What the Hon'ble Member means by 'damage they may be legally entitled to' I don't know. But, putting that on one side, I object to the amendment. The section as it stands follows the existing law. The object is to exclude claims for sentimental damage, alleged injury to feelings, and matters of that kind. When municipal officers commit a trespass, if the municipal officers do actual damage they ought to be made to suffer. If a municipal servant acts in bad faith, if bad faith can be proved against him, he can be criminally

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Babu Boikanta Nath Sen; Babu Jatra Mohan Sen.*]

prosecuted and punished; but it is quite unreasonable in ordinary cases to grant compensation merely for sentimental damages."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret I cannot support this amendment. It seems to me that the language used in the second part of the section is a necessary consequence of what is stated in the first part. The officer is declared to be under no circumstances a trespasser; therefore, nothing but special damage can be recoverable from him. Even if the amendment of my hon'ble friend were adopted, the Court would have to say that the damage to which the man was legally entitled was special damage. The amendment would not improve matters in the least."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Apart from the law, I don't think the Council ought to accept the amendment. I think no case has been made out for a change of the law in this respect, and I am also of opinion that municipal servants should be protected. Having regard to the fact that municipal servants need protection, and that there has been no abuse of the existing law which is identical with this section in the Bill, I do not think that any case has been made out for making the section more stringent than it is at the present moment. I am afraid I must oppose the amendment."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I would only add one word. 'Damage that they may be legally entitled to' would be, according to the existing law, the special damage sustained by them. The provision, therefore as it stands is quite correct."

The Hon'ble BABU JATRA MOHAN SEN, in reply, said:—"I should like to make one observation, *viz.*, when the first portion of the section declares that the action of the officer does not amount to trespass because he contravenes a rule, it only goes to show that he is not liable to criminal prosecution. If the definition of 'special damage' is, as some Hon'ble Members seem to think, that it includes damages touching injury to the feelings, I would not like to press the amendment; but if that is not so, as the Hon'ble Member in charge of the Bill indicates, I think this amendment ought to be carried."

The motion was then put and lost.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

SECTION 228.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220R (*now* 228) the words "for a period of six years after the rate became due" be omitted.

He said:—"Sir, I confess I have been somewhat puzzled by this section. It seems to be taken from the Bombay Act, section 212; the words which I suggest should be taken out are not to be found there, and I have not been able to discover any special reason why they should be put in here. The Indian Limitation Act prescribes a period of twelve years within which a charge on immoveable property may be enforced, and I cannot make out why, in the present instance, that period should be shortened to six years. Further, it is by no means difficult to conceive cases in which this departure from the ordinary law may lead to anomalies, for instance, the case of an occupier who is compelled to pay the owner's share of the consolidated rate. I would venture to suggest that the words 'for a period of six years after the rate becoming due' should be omitted and the law allowed to take its ordinary course."

The Hon'ble MR. BAKER said:—"These words are not in the Bombay Act, and they were not in the Bill when it came up before the Select Committee. They were inserted in Select Committee at the instance of the Hon'ble Babu Norendra Nath Sen."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"At the instance of the Corporation."

The Hon'ble MR. BAKER said:—"I am personally in favour of the amendment, and I think the words are liable, as the Hon'ble Mover has pointed out, to cause confusion. I hope the Council will accept the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think my hon'ble friend is somewhat in error in thinking the objection was made by the Hon'ble Babu Norendra Nath Sen. It was made by the Corporation as a reference to the proceedings of the Bill Committee will show.

"I quite agree that it would be to the interest of the Corporation that these words should be omitted. But we have not only to deal with the Corporation, we have also to deal with the rate-payers; and I don't think, Sir, the words that

are put in here are words put in for the benefit of the rate-payers as against the Corporation. I don't think a debt against a particular rate-payer ought to be allowed to hang on for twelve years, and therefore it was on that account that the words were put in. In the original Bill the words did not occur, and then after much care and consideration the Select Committee came to the conclusion that they ought to be inserted, and I don't think they should be eliminated now. I admit that it would be better for the Corporation if the words were omitted, but we have to look at it from the point of view of the rate-payers. The members of the Select Committee representing the Corporation having taken the view that these words should be there, and having regard to the fact that the Select Committee after careful thought put in these words, they ought not now to be taken out. I venture to think, Sir, that we ought not to depart from a recommendation of the Select Committee in matters of detail of this kind unless very strong reasons have been shown to the contrary. Further, the Select Committee were unanimous in inserting these words, and they were inserted at the instance of the Members representing the Corporation. Having regard to these facts, I think the words ought to be retained."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I think, if it be considered that when the consolidated rate is not paid by the owner a demand would be made on the occupier, these words should be omitted. It is true that in the Limitation Act the period is six years for moveable property and twelve years for immoveable property; but I think the words be better omitted for the reason I have stated."

The Hon'ble MR. OLDHAM said:—"Sir, in the Select Committee I agreed to this section. I had not then had the advantage of hearing the exposition of the general law on the subject, which we have had from the Hon'ble Member for the University. If I had understood the case, I do not think I should have agreed to the insertion of these words."

The Hon'ble MR. BOLTON said:—"I see no objection to the retention of the words of the Bill. They have been recommended by the Select Committee unanimously, and it is desirable that these liabilities should not be kept on the books for so long a period as twelve years. A fixed and comparatively short period will impress on the collecting establishment the necessity of activity in realizing arrears and conduce to better collections. If the period of limitation is undefined, slackness would ensue."

[*Mr. Mackenzie; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. MACKENZIE said :—"I don't think it has been suggested by the Hon'ble Dr. Asutosh Mukhopadhyaya that it should be twelve years, but merely that the law should take its course whatever the period may be."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I have patiently listened to what has fallen from my hon'ble friend Babu Surendranath Banerjee, but I see absolutely no reason why this Council should be so tender to the dishonest rate-payer who thinks it his duty to evade the ordinary law. If *A* has a charge on the property of *B*, the law of the land entitles *A* to enforce the same within a prescribed period of limitation. If *B* happens to be a rate-payer and *A* happens to be the Calcutta Municipality, there is no imaginable reason why a shorter period of limitation should be prescribed. In the absence of very special and cogent reasons, no departure should be made from the ordinary law to the injury of the Corporation."

The motion being put, the Council divided as follows:—

Ayes 11.	*Noes 7.*
The Hon'ble Mr. Buckley.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Buckland.	The Hon'ble Raja Bahadur Ranajit Sinha of Nashipur.
The Hon'ble Rai Durga Gati Banerjea, Bahadur.	The Hon'ble Babu Jatra Mohan Sen.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Apcar.
The Hon'ble Mr. Mackenzie.	The Hon'ble Mr. Bolton.
The Hon'ble Mr. Spink.	The Hon'ble Mr. Slack.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmad.	
The Hon'ble Mr. Oldham.	
The Hon'ble Mr. Baker.	

So the amendment was carried.

SECTIONS 230 AND 232.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 220T, clause (*a*) [*now* section 230, clause (*b*)], the words "and enclosing the sum demanded" be omitted.

[*Dr. Asutosh Mukhopadhyaya ; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 220T, clause (*b*) [*now* section 230, clause (*c*)], after the word "and" be inserted "after depositing the amount demanded."

The Hon'ble DR. ASUTOSH MUKOHPADHYAYA also moved that to section 220T (*now* 230) the following be added :—

"(*c*) or pay the sum demanded, together with any costs incurred under section 220C (*now* 214)."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 220V (*now* 232), line 3, for the word "either" the word "any" be substituted, and that the words "and has not paid the whole amount of the demand" be omitted.

He said :—"These amendments, Sir, have been suggested principally because it was not without considerable difficulty that I could make out the object of the section as it stands. It seems to be a new section, and I merely try to give effect to what appears to be the possible intention of its framers. Section 220T (*now* 230) contemplates two alternatives, namely, the defaulter may either elect to be prosecuted or contest the demand; but section 220V (*now* 232) shows by implication that there may be a third alternative, namely, the defaulter may pay up the demand. If so, all the three alternatives ought to appear in proper order in the earlier section. In the next place, it seems to me somewhat anomalous that, if a man elects to be prosecuted, he must, as a condition precedent, enclose the full amount demanded; for, whether he pays or not, he has rendered himself liable to prosecution. On the other hand, it seems desirable to insist on a deposit where the defaulter chooses to contest the demand; this would discourage frivolous objections, and would render a prosecution unnecessary when the objections are over-ruled."

The Hon'ble MR. BAKER said :—"It is rather awkward that these three amendments have been taken together, because the first two, to my mind, stand on an entirely different footing from the third. I will deal with the first two to begin with; and I object to these for this reason: I think that they will encourage people to elect to be prosecuted rather than to appear before the Chairman and contest the demand. We know that in the past, when prosecutions have been the only means of recovering these municipal dues, the whole of the work connected with the license-tax and the horse and carriage tax has got

[*Mr. Baker; Mr. Bolton.*]

into very great confusion. It has been the law hitherto that these taxes could only be collected through the agency of the Criminal Courts. I must say that the Criminal Courts are a most inappropriate agency for collecting municipal dues, and how that law came into existence I cannot understand. We have endeavoured in this section to make criminal prosecutions as unpopular as possible. Therefore we provide that, if the defaulter elects to go before a Magistrate, he must have in the first instance deposited the amount. That applies to both the first two amendments. We only provide that money must be deposited in the event of a man electing to be prosecuted. The Hon'ble Member wishes to do exactly the reverse, that is, he would not require a deposit if the defaulter elected to be prosecuted, and he would require a deposit if the defaulter elected to go before the Chairman. Then, as regards the third amendment, the Hon'ble Member is quite right in saying that this provides a third alternative, but the intention of the section is that this third alternative shall exist all the time. My own feeling is that the Hon'ble Member is right and that it is desirable expressly to includo this third alternative in the section. The three alternatives would therefore be that a man may elect to be prosecuted, or he may appear before the Chairman and contest the demand, or he may pay up the demand. That is what is intended, and that is what the Secretary says is the effect of this section. My opinion is that it would be better to express the third alternative more clearly, but as it is a matter of drafting I do not feel justified in opposing the expert opinion of the Secretary."

The Hon'ble MR. BOLTON said:—"I would point out that the words 'elect to be prosecuted' are very unusual. The law cannot consistently declare a man liable to prosecution and at the same time permit him to 'elect' whether he shall be prosecuted."

The Hon'ble MR. BAKER said:—"We give him the power to elect to be prosecuted. Under the provisions of section 220S (*now* 229) the Chairman has the power to prosecute in any case."

The Hon'ble MR. BOLTON said:—"Yes, but 'intimate that he will await a prosecution' would be an improvement."

[*The President; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble THE PRESIDENT said:—"I have consulted the Secretary; and he says that there will be no objection to place a third alternative in the manner suggested, and I think it is desirable to put that alternative as much in the forefront as possible and to alter the sections accordingly."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"That will, to some extent, meet my views. There is one point which I am bound to say has been completely overlooked. In one respect clause (*a*) [*now* (*b*)] is really inconsistent with section 606 (*now* 578), sub-section (2) of which provides that 'such fine when levied shall be taken in full satisfaction of the demand on account of such license.' Surely it is not intended that a man should pay up the money under this clause, then elect to be prosecuted, get himself fined and pay the fine in satisfaction of the demand. You cannot make him pay twice, once in the shape of a deposit and a second time in the shape of a fine."

The Hon'ble MR. BAKER said:—"The fine must be more than the tax."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Why do you make him deposit the amount of demand?"

The Hon'ble MR. BAKER said:—"To discourage prosecutions."

The Hon'ble THE PRESIDENT said:—"The deposit will be taken as part of the fine."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"It ought surely to be, only it is not so stated. I cannot believe that it was ever intended that he should be made to pay twice."

The Hon'ble MR. BAKER said:—"I have no objection to that being made clear, that the amount paid in is to be taken as part of the fine."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The deposit should be set-off against any fine levied under section 606 (*now* 578)."

The Hon'ble THE PRESIDENT said:—"It would be clearer as a clause to section 606 (*now* 578), I think."

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Buckley; Mr. Apcar.*]

The Hon'ble MR. BAKER said:—"I will consult the Hon'ble Member after Council, and we can settle the matter then."

The further consideration of these amendments was then postponed.

NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following be inserted after section 225B (*now* 242):—

"It shall be the duty of the Chairman to test the purity of the supply of filtered water once every week and to lay the result before the General Committee."

He said:—"I am perfectly certain my hon'ble friend will sympathise with this amendment. It is a question which affects the purity of the water-supply. The water-supply ought to be tested and the result ought to be aid before the General Committee, and the people of Calcutta ought to know the character of the water they have to drink."

The Hon'ble MR. BAKER said:—"It is already provided for in section 590, clause (5) [*now* section 559, clause (6)], which enacts that the General Committee may make bye-laws for directing and regulating the purity of filtered water."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I do not think it is provided for. The General Committee may order that the water should be tested once month. It is too important a matter to be left to the discretion of the General Committee. I cannot see what possible objection my hon'ble friend can have to the water being tested once a week. I remember perfectly well, Sir, that there was a time when the water was tested every week by the analyst to the Corporation, and the results were laid before the General Committee. That practice has unfortunately been discontinued, I am sory to say, and it ought to be revived as a matter of statutory obligation. It ought not to be left to rules and bye-laws."

The Hon'ble MR. BAKER said:—"I may remind the Hon'ble Member that bye-laws are submitted to the Corporation for sanction."

The Hon'ble MR. BUCKLEY said:—"I think it is desirable that the water-supply should be tested once a week."

The Hon'ble MR. APCAR said:—"Sir, if there is a feeling that it is advisable to have this test once a week, surely we ought to have a provision to that effect."

[*Mr. Mackenzie; Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Baker.*]

The Hon'ble MR. MACKENZIE said:—"As regards the testing itself, Sir, I would be prepared to go even further than the amendment and say that the test ought to be made every day. It is, however, in my opinion a matter that ought to be left to the discretion of the General Committee."

The motion being put, the Council divided as follows:—

Ayes 10.	*Noes 8.*
The Hon'ble Mr. Buckley.	The Hon'ble Mr. Buckland.
The Hon'ble Mr. Handley.	The Hon'ble Rai Durga Gati Banerjee, Bahadur.
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Mackenzie.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Spink.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmad.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Oldham.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Baker.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Bolton.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	
The Hon'ble Mr. Slack.	

So the amendment was carried.

SECTION 246.

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR moved that the words "and watering roads and gardens" be inserted after the word "drains" in line 1 of clause (*ii*) of sub-section (*2*) of section 225E (*now* 246).

He said:—"There are many houses, especially in the southern part of the town, with small compounds attached to them. In the said compounds there are small roads for the entrance and exit of carriages, and small gardens attached to them. I don't think that it is reasonable for us to tax the owners or occupiers for the small quantity of unfiltered water required for watering these roads and gardens, especially where the occupiers or owners do not consume the full quantity of water allowed to them under the law."

The Hon'ble MR. BAKER said:—"The question in regard to this matter is whether people should be allowed to use the unfiltered water for their gardens and compounds without paying for it. The present practice is that they pay for

it, and, if the amendment were adopted, the Corporation would lose some revenue. I do not think the Hon'ble Member has made out any case for this change."

The motion was then put and lost.

SECTION 248.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "five" be substituted for "four" in line 4 of section 226 (*now* 248).

He said:—"Instead of 4,000 gallons per day, I beg to recommend that every person paying the water-rate should be permitted to have 5,000 gallons of filtered water for every rupee of the water-rate. I may say—and it is my duty to put it on record—that in the original Bill the amount to be supplied was not 4,000 gallons but 3,000 gallons; and, as a result of the discussion we had in Select Committee, the quantity was raised to 4,000 gallons. I thankfully accepted that, but, Sir, it is not enough, and there is no reason why the rate-payers should not get water at the rate of 5,000 gallons per rupee. I have been making enquiries, and I find that the cost price of 1,000 gallons is about 10 pice, so that for a rupee you would get more than 6,000 gallons of water. I do not want to put it so high as that. I wish to give to the rate-payers, whose money has made the water-works, only 5,000 gallons of water, and not 6,000 gallons, to which indeed they are entitled at the cost price. Then, Sir, there is this consideration. You treat the rate-payers, even after the concession you have made, exactly in the same way as you treat outsiders. We supply water to the Barrackpore Cantonment at the rate of 4 annas for 1,000 gallons, that is, 4,000 gallons to the rupee, and you propose to supply the rate-payers of Calcutta at the same rate. I don't think, Sir, the rate-payers of Calcutta ought to be treated in exactly the same way as the people of Barrackpore. I think a larger supply ought to be given to them. If we can sell water to the people of Barrackpore at the rate of 4,000 gallons per rupee, I am not making an exorbitant demand when I ask that the rate-payers of Calcutta should receive 5,000 gallons for the rupee. They would be entitled to 6,000 gallons, but I do not want to put it so high. I would be content with a rate cheaper than the rate at which water is supplied to the Barrackpore Cantonment, but below what the rate-payers would be entitled according to the cost price. I am perfectly certain

[*Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Baker.*]

the Council will be in strong sympathy with my proposal. I may say, Sir, that there is a very strong feeling about this amendment. I think, if my hon'ble friend refers to the numerous representations made to him, he will find that in the opinion of the rate-payers generally the question of water-supply is the most important question raised in this Bill next to that of the constitutional clauses. As Your Honour's Government has not been able to meet the wishes of the people in regard to the constitutional clauses, I ask that, as a small concession, they may be allowed this increased supply of filtered water."

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR said:—"I have an amendment on the paper, Sir, which is identical with that which has just been moved by my hon'ble friend, and so I beg that they may be considered together. From what has fallen from my hon'ble friend, Babu Surendranath Banerjee, there remains very little for me to add. In one Hindu family there live several distantly related dependents, and the Hindus cannot move an inch in their daily household business without water; so they will feel much if water-supply is so restricted."

The Hon'ble Mr. BAKER said:—"I am in entire sympathy with the Hon'ble Members in their desire to get the largest possible supply of filtered water for the people of Calcutta. The filtered water-supply is one of the greatest boons which have ever been conferred upon the city. But this matter has to be looked at from two points of view. It must be looked at not only from the point of view of the rate-payers who receive the water, but also from the point of view of the Corporation who have to supply it; and I am afraid, Sir, my Hon'ble friend has looked at the matter solely from the point of view of the public, and left the point of view of the Corporation out of sight. I think, Sir, we are all agreed that the object to be aimed at is to fix the statutory supply of water at the highest possible figure consistent with a reasonable margin of safety. Now, Sir, the Hon'ble Member said that the actual cost is about 6,000 gallons to the rupee. It is, as a matter of fact, about 6,300 gallons to the rupee. These figures we obtain in this way. The daily supply is 20½ million gallons; the total amount of water-rate is about 11½ lakhs. Dividing one figure by the other, you get about 6,300 gallons for every rupee. At first sight then, it looks as if the Hon'ble Member is right, and that it would be

possible to give the rate-payers a statutory supply of 6,000 gallons for every rupee; but there are two reasons which make it impossible to do so consistently with safety. When we say that the daily supply is 20½ million gallons, it means that that is the quantity of water registered at the pumping stations. The way in which the water is registered there is this: We know exactly the capacity of the pumps; we know exactly the amount of water raised by each stroke of the engines; and we obtain the total quantity of water raised by multiplying that capacity by the number of strokes. Now, Sir, if our whole system of mains and pipes and fittings were absolutely perfect, then the total quantity of water registered in one day would accurately represent the quantity of water which passes into consumption in the houses of the people. But, unfortunately, our system of mains and reservoirs and pipes and fittings is very far indeed from being perfect; in fact, it is very faulty. What the amount of the leakage is will, I fear, never be known until some system like that which they have in Liverpool, or Deacon's waste-water meter system, or some other system of that description, is introduced into Calcutta. A puncture in a pipe, about the size of a pin's head, will allow 100 gallons of water to run to waste in 24 hours. Mr. Hughes told Mr. Buckley and myself, in one of the numerous conferences we had with him on this subject, that he would not be surprised to hear that one-third of the whole amount of water never reached the houses of the people at all. It runs away to waste at the innumerable leaks all over the system. I don't wish to overstate the case; so I would take the leakage at one-fifth of the whole. I understand Mr. Buckley will bear me out in this. If you therefore take one-fifth from 6,300 gallons, it leaves you only 5,040 gallons. That is a very small margin in excess of what the Hon'ble Member wants, and for this reason alone it would not be safe to allow 5,000 gallons per rupee.

"But there is another reason also. The statutory supply which we propose to make in this section is a general all-round average rate. It represents the quantity of water we can supply throughout the town if everybody were to receive his proper quantity of water, neither more nor less. But there are a number of houses which receive far more than their statutory supply. Taking the average of the town and the suburbs together, I think the average supply is about 31 gallons per head per day. In the town proper it is about 38 gallons and in the suburbs it is between 11 and 12 gallons. In some parts of the northern quarter of the city the consumption in some of the houses rises as

high as 70 gallons a day. Now, so long as that is the case, so long as it is impossible to put an end to this state of affairs, it is evident that many of the people in other parts of the town must be content with a smaller quantity than the supply allotted to them under the Act. Therefore, it is impossible for us to stipulate that every person shall receive the full all-round average rate. On account of this we propose to deduct 1,000 gallons per rupee, in order to allow a margin of safety, and this brings us from the 5,040 gallons to 4,000 gallons which we provide for in the Bill.

"I will only add, Sir, that the Hon'ble Members may rest assured that the rate-payers will not receive one single pint of water less under this enactment than they would if the amendments of the Hon'ble Members were accepted. It is the strongest wish of everyone connected with the Corporation to extend and improve the supply of filtered water throughout the town, and we shall gradually work up, I hope, to a continuous and unlimited supply in the future."

The Honble MR. BUCKLEY said:—"Sir, I should be very glad if I could support the amendment of the Hon'ble Babu Surendranath Banerjee. I entirely sympathise with his wish to give as much water as possible to the people. Mr. Hughes went very fully into this question and made out a case even stronger in some respects than that of my hon'ble friend himself. Mr. Hughes, by a calculation which he made, came to the conclusion that the water could be delivered in the town at cost price at the rate of about 8,000 gallons to the rupee, provided that the profits made by sale of water were deducted from its cost price. Mr. Hughes thought the really equitable and proper way was to have a sliding scale which he worked out with considerable care and trouble. This sliding scale provided for only 1,500 gallons to each rupee of water-rate in some cases of large houses and for as much as 5,000 gallons for the value in small ones; but this would not be a workable arrangement. The Hon'ble Mr. Baker has put this case so excellently that he leaves me but little to say, but I would support the main reason he put forward why it is impossible to give these 5,000 gallons per rupee. It is in consequence of the great loss of water between the pumps and the houses. I do not suppose that the Municipality of Calcutta have the slightest idea of the amount of waste which goes on. We hear a great deal of the waste of water in Calcutta, and no doubt the waste is

[*Mr. Buckley.*]

gross. When we speak of that waste we generally have in mind the many leaking taps which probably every gentleman in this room has in his own house. I know I have them in mine. But the amount of leakage which goes on between the pumping stations and the houses is also, most probably, enormous. As the Hon'ble Mr. Baker has said, the water-works in Calcutta are old and in some cases are defective. I have here a report laid before the Institution of Civil Engineers within the last few years. Speaking of the water-works in England, it says that the waste of water in the main and connections before the water is drawn off at the taps amounts in many water-works to one-half of the original supply. Now, I don't think that is true in Calcutta. I don't think the loss here is as great as that; but it is very large. Sir Frederick Bramwell, who made investigations into this matter, arrived at the conclusion that in many cases of large water-works the amount of water actually drawn off at the taps for consumption was not more than one-third of the entire original supply. There is no question whatever that the loss between the pumps and the houses is very great, and it is not possible to deliver water in the houses at the price which it may be proved to cost at the pumping stations. Now, Sir, this Bill introduces a great change in the water-works of Calcutta, and when that change has been fully established, and the enormous improvement which it must undoubtedly effect has been carried out, it may be possible that the Hon'ble Member will get his 5,000 gallons to the rupee. But if Hon'ble Members will study this Bill, they will see that great care has been taken to lay down a stipulation that these alterations are to be introduced gradually during a long series of years—seven years I think it is. I won't detain the Council by stating what the reason for this stipulation is. I will only say that it is a very good reason. I am perfectly certain that if this amendment is carried now, and the 5,000 gallons per rupee is made a statutory allowance which everybody may have a right to demand, there will be some people in the town who will not get half what they are entitled to, and I believe there are many now who will not get 3,000 gallons for each rupee of water-rate paid by them. If the statutory allowance be raised to 5,000, I believe the Municipality would find great difficulties in meeting demands for water. There are other reasons, and one is that this new system of continuous supply will cost more money, and there is also one other reason that there is no question whatever (looking to the experience of the many towns in England which have gone through the change now going to be introduced in Calcutta) that

the quantity which may be consumed in Calcutta itself, without detracting in the least from the needs of the people, will, be very largely reduced indeed, and consequently the cost per 1,000 gallons may be increased. I strongly advise the Council to reject the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I am grateful to the Hon'ble Member in charge of the Bill and to my hon'ble friend opposite. Mr. Buckley, for the sympathy they have expressed with my amendment, I can assure the Council that there is a very strong body of public sentiment behind the amendment I have laid before the Council. My hon'ble friend has observed that I have approached the question not from the point of view of the Corporation, but from the point of view of the rate-payer. Sir, I do approach the question from that standpoint. I am first a citizen and then a member of the Corporation. Whatever impulses I may have as a member of the Corporation, they are nothing as compared to my impulses as a citizen of the great Indian community to which I have the honour to belong. And, Sir, while I have listened with the greatest possible respect to the statements made by the two Hon'ble Members who preceded me, those statements have not convinced me that I was wrong and that they are right. The great difficulty, so far as I can gather, is that we lose a great quantity of water by leakage, and that people in some parts of the town use much larger quantities of water than they are entitled to use. Then, Sir, Mr. Hughes comes upon the scene, and he says that at the cost price the people of Calcutta would be entitled to 8,000 gallons of water to the rupee. Can anybody approximately tell us what the leakage is? Can anybody tell us what the amount of water is that is wasted by people in the town? No definite statements are put forward, but vague allegations are made; and upon these vague allegations we are called upon to withhold from the people of Calcutta the great boon for which they cry at the hands of this Council, namely, that they should be supplied with water at the rate of 5,000 gallons a day. I say you have not been able to make accurate calculations; you have not got the data for making accurate calculations; and yet, upon vague calculations, you are prepared to refuse to the people of Calcutta the great boon which they are entitled to receive at your hands, *viz.*, a larger quantity of water than what they now receive. If you had facts and figures which could be scrutinized, I would accept your conclusions, and I would ask my constituents to accept those conclusions. I could tell them that we cannot

[*Babu Surendranath Banerjee; Mr. Buckley.*]

grant their prayers in this matter; it is perfectly impossible for the Government to grant them. But, Sir, you have not been able to give us any specific facts beyond these general statements. Sir, I desire to carry the point a little further. My hon'ble friend Mr. Buckley has said, and I think he has made the statement more than once at meetings of the Select Committee: 'Give the people of Calcutta a continuous supply of water, and then there will be less waste.' I think I am right in that statement.'"

The Hon'ble MR. BUCKLEY said:—"Certainly."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My hon'ble friend in charge of the Bill was good enough to lay a statement before the Select Committee, in which he proved that wherever a system of continuous supply has been introduced it has led to a considerable saving of water. That is the statement upon which I take my stand. Therefore, Sir, we have this principle of continuous supply and no waste. I think, Sir, I am right in inferring as a corollary to that principle that, if we have a larger supply, the waste will be less than at present. If a continuous supply means no waste, a larger supply means less waste. Therefore, if instead of 4,000 gallons we give 5,000 gallons, there will be less waste. I think I am entitled to that conclusion. Then, Sir, the people of Calcutta will find that the Government has made an effort to comply with their wishes in this respect. And I am perfectly certain the leaders of the community—if only as a recognition of this concession—would co-operate with the Corporation and the Government to see that there is no waste of water in Indian houses. Therefore, Sir, if it is proved that continuous supply means a saving of water, then I am entitled to hold that, if you give the people 5,000 gallons, there will be a saving in waste. I am bound to say that in my opinion there is considerable exaggeration with regard to the waste of water in Indian houses. That there is waste I do admit, but I am afraid there is a considerable measure of exaggeration with regard to what that waste is; and where you have no definite facts you are liable to be carried away by exaggerated statements. If that be so, we ought not to legislate, so to speak, in a panic upon the basis of exaggerated statements and withhold from the people of Calcutta the boon which I am perfectly sure Your Honour's Government is anxious to grant them. I wish my hon'ble friend would get rid of those apprehensions which he has derived from consultation with the municipal executive. People in their

responsible positions are apt to be cautious, and I respect their caution; but we as legislators stand outside the particular grove and the particular sphere in which they are accustomed to move. We ought to take a wider view of the situation, we ought to be able to sympathise with a public grievance, and not to tender our consciences to their keeping. We should rather exercise an independent judgment in regard to those conclusions which they desire us to accept. I ask the Council not to be led away by the exaggerated fears of the municipal executive. I ask the Council to take note of their apprehensions, but to judge the matter independently, having regard to their wider knowledge and their deeper sympathies. I trust, Sir, that Your Honour's Government will see its way to accept the amendment."

The motions being put, the Council divided as follows:—

Ayes 7.	*Noes 11.*
The Hon'ble Rai Durga Gati Banerjee, Bahadur.	The Hon'ble Mr. Buckley.
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Mackenzie.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Spink.
The Hon'ble Mr. Apcar.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASHUTOSH MUKHOPADHYAYA moved that in section 226, (*now* 248), line 4, the words "not more than" be omitted.

He said:—"I hope, Sir, that the Hon'ble Member in charge of the Bill will be reasonable enough to accept this amendment. I was listening with great attention to the debate on the last two amendments, and they seemed to me to be so absolutely harmless from every point of view, certainly from a practical point of view, that I thought the Hon'ble Member in charge of the Bill would accept them. It would not matter in the least whether instead of

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

4,000 gallons you put in 5,000, or 10,000, or 20,000 in the section as it stands. Let us read the section:—

'Subject to the provisions of section 265C (*now* 283), the occupier of every building connected with the water-supply shall be entitled to have, free of further charge, *not more than four* thousand gallons of filtered water for every rupee paid to the Corporation as water-rate on account of such building, together with a sufficient supply of unfiltered water for flushing privies, urinals and drains, and for cleansing stables, cattle-sheds and cow-houses occupied by animals which are not kept for profit or hire.'

"It is clear, therefore, that the Corporation is under a statutory obligation to supply not more than 4,000 gallons of filtered water. What difference would it make to the Corporation if we solemnly declared that their statutory obligation was to supply not more than ten thousand gallons? Manifestly none whatever, so long as a minimum is not fixed. It seems to me, therefore, that the fight so long was about a mere shadow. Now let us look to the existing law, which you will find embodied in section 155 of the Act of 1888. Curiously enough, the words 'not more than' are not to be found there, and the Corporation is under a statutory obligation to supply three thousand gallons, neither more nor less. Under the new law, the Corporation will be under no obligation whatsoever; even if a single gallon is supplied, there will be ample compliance with the letter of the law. I quite agree with the Hon'ble Member in charge of the Bill that there are two sides to this question—the Corporation's point of view and the rate-payers' point of view, and I can very well understand that the words 'not more than' have been inserted from the Corporation's point of view; but at the same time I urge that, from the rate-payers' point of view at least, a minimum ought to have been fixed; it would certainly have been far more satisfactory if the section had provided that 'not more than 4,000 and not less than 3,000 gallons of filtered water is to be supplied.' If it is intended that 4,000 gallons of water should be supplied, and if it is possible to supply that quantity, the words 'not more than' are superfluous. If it is suggested that even so much as 4,000 gallons cannot practically be supplied, but only 3,000 gallons can be supplied, let us have the law as it now stands. I would without hesitation prefer 3,000 gallons to 'not more than 4,000 gallons,' which, in its beautiful vagueness, may mean anything from one to four thousand gallons.

The Hon'ble MR. BAKER said:—"I think my reply to this will have been anticipated from what I said just now. These words are put in in order to

protect the interests of the Corporation. We cannot undertake under the present defective system to give the full supply to everyone. We should be able to give everyone 4,000 gallons if everyone took what he was entitled to or approximately so; but, as I said just now, that is not the case. The actual supply obtained in different houses in different parts of the town varies very widely. In the suburbs many people get only 10 to 11 gallons per head, and the average in the suburbs is only 11¼ gallons per head per day. If we do not put in these words to safeguard the interests of the Corporation, there will be danger that the Corporation will be made liable for damages by disappointed rate-payers in the suburbs. That is the sole object with which these words were inserted."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I confess, Sir, that the attitude of my hon'ble friend has completely surprised me. Protect, if you like, the interests of the Corporation, but what possible justification have you for this total, absolute sacrifice of the interests of the rate-payer? Surely, if a maximum is fixed for the protection of the one, a minimum should be fixed for the protection of the other; if the rate-payer is not entitled to ask the Corporation to supply more than a fixed quantity, the Corporation, in its turn, should be bound to supply not less than a minimum quantity. Nothing can be more rational, and I venture to affirm that no sufficient reason has been suggested by the Hon'ble Member in charge of the Bill why the existing law should be changed in this arbitrary and quixotic fashion. My hon'ble friend, Babu Surendranath Banerjee, gratefully acknowledged that this was an advance upon the old law; but it seems to me to be a delusion. The existing law fixes a minimum of 3,000 gallons, and makes it obligatory upon the Corporation to furnish at least that quantity for every rupee of tax paid. The new law will lay the Corporation under no such obligation; the tax-payer continues to be under an obligation to pay the water-rate, but he has no longer any corresponding rights. I affirm without the least hesitation that the new law is distinctly retrograde in this particular, and those that have eyes to see will not be slow to perceive that it is a move in the wrong direction and entirely sacrifices the interests of the rate-payer."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am not prepared to accept that view of the matter at all. I should be glad if a minimum were fixed, and my hon'ble friend may not remember it, but 'not more than' was fixed as the result of a compromise. The Hon'ble Member would not on any account

[*Babu Surendranath Banerjee; Mr. Baker; Babu Jatra Mohan Sen.*]

give us more than 3,000 gallons, and then he gave us 4,000 gallons, subject, however, to the condition referred to. I should welcome a minimum of 3,000 and not more than 4,000, but I am under no delusion with regard to the matter. I am in the full possession of my senses at any rate so far as this particular section of the law is concerned."

"The Hon'ble MR. BAKER said:—"Four thousand gallons is a maximum to be steadily worked up to. That is how the 3,000 gallons has been treated under the existing law. As a matter of fact, many people have not received 3,000 gallons under the present Act."

The motion was then put and lost.

To Hon'ble BABU JATRA MOHAN SEN moved that the following proviso be added to section 220 (*now* 248), namely:—

"Provided that no occupier or occupiers of any building shall be liable to any further charge unless the supply exceeds fifteen gallons *per* head *per diem*."

He said:—"I should like, with Your Honour's permission, to add these words: namely, 'of the inmates of such building,' after the words 'per head' in my proposed amendment, the amendment running as follows:—

'Provided that no occupier or occupiers of any building shall be liable to any further charge unless the supply exceeds fifteen gallons per head of the inmates of such building per diem.'

"The reason why I have proposed this amendment is that it is difficult to sell water at so many gallons per rupee to the people, although, according to the calculation of expenses of supplying water and the taxes, a minimum of 4,000 gallons has been fixed; but it would be difficult to carry this out practically. We are all aware that the middle class of people pay moderate water-rates, but their demand for water-supply is great. They live in small houses with large families, and they require more water. The richer people probably pay larger rates and do not require so much water, because they can afford to live in comfortable houses and pay larger rates, and their families may not be so large as to require the maximum quantity of water that they are entitled to under this section. Therefore, when a further charge is going to be made for larger supply, I think it would be very hard upon the poorer classes, and I think I express the feelings of the richer class if I say

that they would not object to their poorer neighbours getting more water than they are entitled to at their cost because they do not require as much water as they pay rates for. The Hon'ble Member in charge of the Bill has said that the least quantity of water consumed by an individual is 11 or 12 gallons. Therefore, when I fix 15 gallons per head, it is, I think, a clearly moderate demand. I am sure this proviso will not in any degree tend to bring any loss upon the Municipality in this matter. It is well known, Sir, that in India, and especially in Calcutta, the demand for water is very great, and the Hindus require a large supply of water, and it is not unknown that there are many members of a family who bathe twice daily. Therefore, 15 gallons of water, which will be a little over three *kulsses* of water per head, is not, I think, very large. With these observations I would recommend this proviso for acceptance by the Council."

The Hon'ble MR. BAKER said:—"The modification which the Hon'ble Member has now made in his amendment makes it a little more definite than it was before. As it originally stood, I was unable to make out what the actual meaning of it was. Now I understand that the occupier is not to be liable for any further charge unless the supply exceeds 15 gallons per head of the inmates of the house. The Hon'ble Member, in the first place spoke about poor people living with large families in small houses and requiring a great deal of water, and he said it would be a hardship to them if they had to pay more for the excess water which they use. The Hon'ble Member seems to think that water is given to them as a charity, or that it should be so given them. That is not the position at all. People are entitled to the water they pay for, neither more nor less; and no man has any sort of right to expect a larger supply of water merely because he is poor, or, least of all, merely because his family is large. Has the Hon'ble Member really considered what the effect of the amendment would be? I will give an instance. Take the case of a man with his wife and three children living in a house and using exactly their 15 gallons of water per head per day. They would not be bound to pay any additional penal rate. Now suppose one of those children dies and the family goes on using the same quantity of water as before? Does the Hon'ble Member intend that thereupon that family should become liable to pay an additional rate? I can hardly think that that was his intention, but that is the direct effect of his amendment. Take another case. Suppose that this man, his wife and three

children are living in a house, and they are using more water than they are entitled to and were being charged for it. Suppose a baby was born in the house, and the addition of that child, which used no water at all, raised the supply to which the occupier was entitled under this clause to more than he was actually using. Would therefore the family cease to be liable to pay that additional rate? I am quite certain no such system could possibly be worked by which the supply of water to which people are entitled shall be made to depend upon accidents of this kind—accidents which happen from day to day, and of which the municipal authorities can never possibly get information. The whole amendment is absolutely impracticable to my mind, and I cannot imagine any means by which it could be worked."

The Hon'ble MR. BUCKLEY said:— "I quite agree with the remarks which have been made by the Hon'ble Member in charge of the Bill that this amendment is absolutely impracticable. It could not possibly be worked in practice. But I do not think any gentleman need be afraid. I have not the slightest doubt that when the system of continuous supply is established in town, everybody will be able to get easily all the water they want. There is no necessity whatever to include this stipulation in the Bill."

The Hon'ble BABU JATRA MOHAN SEN, in reply, said:— "I beg to offer one observation in answer to the Hon'ble Member in charge of the Bill. The illustration which he gave of a member being born in a family or a member dying does not, I submit, affect my amendment. My amendment says that the water-supply is provided in the section itself, and, if further charge is going to be made, in that case only a calculation will have to be made as to whether a member has not consumed more water than 15 gallons per head. That is all. He will not be deprived of the water that he is entitled to under the section, but a further charge should be made if he has consumed more water than 15 gallons per head."

The motion was then put and lost.

SECTION 251.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 248 (*now* 251), line 7, after the word "owner" the words "but not recover from him otherwise" be inserted.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

He said:—"Section 248 (*now* 251) provides as follows:—

'If any owner upon whom a notice has been served under section 247 (*now* 250) does not, within one month from such service, cause such necessary works as aforesaid to be completed, the occupier who gave the notice may cause the works to be provided or completed, and may deduct from the rent payable by him to such owner the expenses incurred by him in respect of such works, except so much of such expenses as may have been incurred under the circumstances mentioned in clause (*b*) of the said section 247 (*now* 250).'

"Section 247 (*now* 250) entitles the occupier of a masonry building to call upon the owner to provide all necessary works for bringing into the premises a supply of filtered water. If such requisition is not complied with, the occupier is himself entitled to have all the necessary works executed under section 248 (*now* 251), which further provides that he is entitled to deduct from the rent payable by him to such owner the expenses so incurred. I venture to suggest that this should be the only mode of recovery left to him; in other words, that he should be in a position to set it off as against the rent payable by him to such owner, but should not recover the amount from him otherwise. The object I have in view is the protection of the landlord. When such an occupier has called upon the owner to provide all necessary works for bringing into the premises a supply of filtered water and upon failure of the owner to carry out such requisition has himself incurred the expense, he should remain on the premises long enough to enable him to set off the expenses incurred against the rent, otherwise it might so happen that to suit his convenience he might leave the house shortly after, and then sue the owner to recover these expenses. I do not think that would be at all fair. Section 248 (*now* 251) gives a distinct advantage to the occupier; it enables him to execute the work himself and to deduct the expenses from the rent payable; it would be only fair to the owner to fence this in by a limitation in his favour, for he is justly entitled to claim that the tenant should remain long enough in the house to enable him to realize the amount he has spent."

The Hon'ble MR. BAKER said:—"I have no strong opinion about this amendment one way or the other, but it seems to me a little doubtful whether we should act rightly in withdrawing the legal power which the occupier would have to recover this money in the ordinary course of law from the owner. It might happen that his tenancy came to an end not through any bad faith on his part, but owing to a cause over which he had no control, and

for which he could not be responsible; and in that case I think it might be really hard upon him if he was not allowed to recover the money which he spent in making the house-connection. In that case it seems to me that the owner would get the benefit of the money spent by the occupier for nothing, and I am not sure that that result would be equitable. Still, as I have said, I have no strong opinion on the subject one way or the other."

The Hon'ble MR. BOLTON said:—"I oppose this amendment, because the presumption is that the occupier will, in his own interest, continue to occupy the house for the period requisite for the full recovery from the rent of the amount chargeable to the landlord for this improvement. If, on the other hand, the occupier is compelled to leave the house by circumstances over which he has no control, the landlord would benefit at his expense through his inability to recover the amount still due to him by recourse to a suit. Any improvement made in consequence of a requisition of the occupier under this section is a permanent improvement of the tenancy, and a permanent addition to its value, which benefits the landlord. The provision is, finally, one of conservancy, and specially desirable on that ground. It is clearly advisable for the general health of the town that house-connections with the filtered water system should be as numerous as possible."

The Hon'ble MR. OLDHAM said:—"I agree with the amendment, and I think the only argument against it is that suggested by Mr. Baker, but I also think that the occupant in such a case should take into account the precariousness of his position before he subjects the owner to what may be considerable expense."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I cannot support the amendment for reasons which I beg to state. In the first place, it would be taking away the general right of a person to recover his money by resort to the ordinary course. This provides simply a summary remedy, as it were, by withholding payment. In the next place, it may be that the work which would have to be done may be for a large amount, and he may have to wait for a long time to get himself recouped by withholding payment of the rent. Why should he be deprived of getting the amount spent as speedily as can be done? No interest can be charged for the amount, and that is another consideration. For these reasons I am sorry I am unable to support the amendment."

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Boikanta Nath Sen.*]

The Hon'ble DR. ASUTOSH MUKHOPADHAYAYA, in reply, said:—"There seems to be some misapprehension in this matter: section 248 (*now* 251) gives an exceptional right to the tenant which he does not possess under the common law. If a tenant who is in occupation makes any improvement for his own benefit, under the common law, he is not entitled to charge his landlord with the expenses. I was, therefore, very much surprised to hear the Hon'ble Babu Boikanta Nath Sen remark that my amendment puts a restriction upon the common law right. There is absolutely no such common law right; if there had been, section 248 (*now* 251) would have been wholly superfluous. We are not legislating here upon the law of contracts. As the law stands, a tenant is not entitled, simply because he has made improvements, to recover the expenses from the landlord; here an exceptional advantage is given to him; he has a special remedy, to enforce which a special procedure is prescribed. I wish to have it made clear that this is the only procedure which may be followed. I think it is only fair that, if a tenant chooses to incur so much expense, he ought also to take the risk. If he does not intend to stay on the premises long enough, he ought not heedlessly to take action under these special provisions."

The Hon'ble MR. BAKER said:—"May I ask the Hon'ble Dr. Asutosh Mukhopadhyaya a question? If I have understood him correctly as to the state of the law, is not his amendment superfluous?"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"That is what I thought, and I was surprised to hear the Hon'ble Babu Boikanta Nath Sen say that it is not so, and that there is a common law right which my amendment seeks to take away. The object of my amendment is not to change the law, but to make it absolutely clear."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I would beg to add a word by way of explanation with regard to what has fallen from the Hon'ble Dr. Asutosh Mukhopadhyaya. The amendment is either superfluous or it is taking away the general right under the law. I do not accept his proposition that the tenant has got no such right."

The motion was then put and lost.

[*Babu Surendranath Banerjee.*]

SECTION 253.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 252 (*now* 253) be omitted.

He said:—"I am happy to be able to say that my amendment involves no legal considerations. It is a matter of common sense, and I hope to be able to convince the Council that the amendment is one which ought to be accepted. Section 252 (*now* 253) provides:—

'Whenever it appears to the Chairman that any building is without a proper supply of water, and that such a supply of water can be furnished from a main not more than one hundred feet distant from any part of such building, the Chairman may, by written notice, require the owner to obtain such supply and to execute all such works as may be necessary for that purpose.'

"Sir, we may be perfectly certain that in an oriental country, where a person does not bring the water into his own house by means of a connection, there must be very strong reasons why he does not do so. The main may be only 100 feet from his house, and, if he does not take advantage of that circumstance and establish a connection and bring the water into his own house, there must be very strong reasons for it, and the strongest of all reasons is his poverty. The man is too poor to do it. He has not got the means. His instincts are in favour of it, but he has not got the means, and he cannot bring the water in. He goes every day himself to the hydrant or sends his son or relative to fetch the water. He is put to a lot of trouble to bring the water to his house. Therefore, Sir, there are the strongest motives operating on the mind of that man to bring the water into his own house, only if he had the means. And, Sir, is it not hard if he has not got the means that the Chairman should compel him to bring the water into his house and have a connection? I do not find the counterpart of this section in any Indian law. It is not in the mufassal law, not in the Bombay law, not in the Madras law. But there is a similar section in the English Public Health Act. But here people use much more water than in England. In England people fight shy of water; here people gladly use water. The precedent of England cannot possibly apply. Compulsion has to be used in England to oblige people to bring water into their houses. No such compulsion is necessary here. In a hot country we need no compulsion to bring water into our houses. Therefore, it seems to me to be rather hard, when the natural impulses of a man are so strongly in favour of a

connection with his house for the purpose of the water, that the Chairman should have it in his power to compel him to bring water into his house. People may be left to their own impulses in the matter, and you may be perfectly certain that their strongest impulses would be in favour of bringing in the water, and, if they are not able to do so, the only reason that would stand in their way would be their poverty, and I hope the Hon'ble Member in charge of the Bill and the Council will sympathise with my amendment which is put forward distinctly on behalf of the poor."

The Hon'ble MR. BAKER said:—"I hope the Council will adhere to the section as it stands. It is taken from the provisions of the English Public Health Act, and, if such a provision has been found necessary in England, where the appreciation of the benefits of good water is of much older date than in this country, *à fortiori*, it is necessary here."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I strongly protest against that expression of opinion. The appreciation by the people of India of good water is to be traced as far back as 3,000 years before the English were a nation."

The Hon'ble MR. BAKER said:—"It is notorious that when the proposal was first made to introduce the system of filtered water in Calcutta, it was strongly opposed. Raja Degumbur Mittor proposed as an amendment that, instead of introducing filtered water, they should elaborate a scheme for the digging of tanks in Calcutta. I say if this provision is necessary in England, where people have been accustomed to appreciate the advantages of good water for many years, *à fortiori* it is necessary in Calcutta. I admit, Sir, that during the last 30 years since the water-supply has been introduced, the advantages of the system have been appreciated. The people have learnt the great benefits which flow from this system, and I admit much of what the Hon'ble Babu Surendranath Banerjee has said, that every one who can afford it will probably endeavour to have his house connected. But, Sir, I think we must not leave out of sight the fact that a good and efficient system of water-supply is one of the most potent factors making for sanitary improvement. It is one of the most important elements in connection with public health. Why should the Chairman be deprived of the power to extend this system to the house of anybody merely because, as the Hon'ble Member has rightly said, the occasion for the exercise of that power is not likely to happen very often?"

[*Mr. Bolton; Mr. Apcar.*]

The Hon'ble MR. BOLTON said:—"Speaking on the last amendment, I observed that the provision which enables an occupier to force his landlord to establish water-connection with his house is one of conservancy. The provision which the Council is now discussing is supplementary to that. In the one case the occupier can force his landlord to connect the house with the water-supply; in the present case a similar power of compulsion is given to the Chairman. It would doubtless be hard in some cases that this power should be exercised, but the Chairman may be trusted to use his discretion reasonably. A limitation is, moreover, imposed for the protection of the people from too heavy an expenditure, and it is found in the words: 'that such water-supply can be furnished from a main not more than one hundred feet distant.' The distance must then be taken into account, and by limiting it to one hundred feet or less, the expense is kept low. It is not left to the Chairman to require the connection whatever the distance may be between the building and the main."

The Hon'ble MR. APCAR said:—"I think there is a distinction between the two cases. In the former case it is the occupier who wants the water. The owner is not so much concerned with the immediate use of the water, though he may be forced to pay for it. Here it is wholly different, because it is the occupier who may be so poor that he is unable to pay for the extension of the water-supply to his own premises, and I confess, although I listened very attentively to the Hon'ble Member in charge of the Bill, I have wholly failed to ascertain that he has made out a case for the application of this law to Calcutta. Whatever objection there may have been to the manner or method of the supply of water taken by the Hindus in days gone by, we must not forget that it was the way in which the water was to be conveyed to them was the chief ground of objection. There is no doubt that there was the strongest appreciation, and always has been, on the part of the Hindus, for water. They worship water, and if they do not get the water-connection into their houses it is for some real cause, and if for some real serious cause, I should be reluctant to give anyone the power to force them to the expenditure that they would have to incur under this section, which my hon'ble friend Babu Surendranath Banerjee seeks to have omitted from the Bill; and I support the mover in his amendment."

[*Mr. Buckley; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BUCKLEY said:—"I confess I do not quite understand how the poorness and poverty of the occupier applies here. The occupier has to pay the water-rate when his house is connected or if his house stands within a certain distance of the water-mains, and the water-rate on his poor house will be a comparatively small amount. To a certain extent the occupier gains if this section is put in force, because, as I understand it,—and the Hon'ble Dr. Asutosh Mukhopadhyaya I have no doubt will be able to put me right if I am wrong,—under section 247 (*now* 251) of the Bill the occupier can compel the owner to make the connection; but in that case the occupier has got to pay 12 *per cent.* on the cost of making that connection. But under this section, if the Chairman orders the owner to make the connection, as I read it, the occupier does not have to pay 12 *per cent.* on the cost of making it, so that the occupier gains to that extent at least that he only pays the water-rate, which he probably pays in any case, and not the 12 *per cent.* on the cost of making the connection. It is my intention to vote against this amendment, because I think that the Chairman will undoubtedly exercise a wise discretion in enforcing it. But I must admit that there is a great deal of force in what the Hon'ble Babu Surendranath Banerjee has said. This section is taken bodily from the Public Health Act, but I think there is this great difference between Calcutta and England—that in England there are hardly any stand-posts and the people cannot, as they can do here, readily get good water by fetching it from a short distance. It is very difficult in an English town to get good water otherwise than by a house-connection; but here in Calcutta a man has not got to go far from his house to get water, and he can get such quantity of water as is reasonably necessary for his requirements. I have no doubt there may be circumstances where a man has got a bad well or some insanitary water where it may be desirable to enforce this section, but my belief is that to a very large extent indeed it would be a dead-letter."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I should be prepared to support this amendment unless the section is slightly modified in the way suggested in my amendment. My proposition is that in section 252 (*now* 253), line 2, after the word 'building,' the words 'to which the provisions of section 247 (*now* 250) are not applicable' be inserted; in other words, that the provisions of sections 247 and 252 (*now* 250 and 253) be mutually exclusive in their application."

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I rise to a point of order? We are considering amendment No. 161, and my friend the Hon'ble Dr. Asutosh Mukhopadhyaya may vote in favour of or against it. He is now considering another amendment which refers to a totally different matter."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"If it is inconvenient to take my amendment now, it will wait its turn; but I thought it would be more convenient to discuss the two together."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My amendment will take care of itself."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"If my hon'ble friend is so deeply attached to his own amendment that he is unable to listen to any suggestion however reasonable, I must confess with regret that I cannot at this stage support his motion as framed. My hon'ble friend has pleaded on behalf of the poor with his usual earnestness and eloquence. I can assure him that I yield to none, not even to my hon'ble friend, in my anxiety to afford all possible protection to the poor and the helpless. But at the same time I resolutely decline to be guided by sentiment or to be misled by rhetoric; and I prefer to examine the facts, to scrutinise them with care and caution. In the first place, let us not forget that under section 145 (*now* 147) every rate-payer is liable to pay the maximum water-rate if his house is situated within 450 feet of the nearest stand post or other supply of filtered water available to the public. Now the present section, to which such vigorous objection has been taken, authorises the Chairman to enforce compulsory supply of water from the main, only if the building is situated at a distance of not more than 100 feet from the nearest water main. It is manifest therefore that, if action is taken by the Chairman under section 252 (*now* 253), there is no addition to the recurring charge under section 145 (*now* 147); the only expenses we have to take into consideration will be the cost of fitting up, once for all, the pipes and other appliances, for a distance which can in no case exceed 100 feet. This cannot be under any circumstances a considerable sum, but I am free to admit that there may be poor people in the city upon whom it may tell heavily. At the same time, you must remember that if the owner or occupier is unable to carry out the orders of the Chairman under section 252 (*now* 253), the necessary works

will be executed at the cost of the Corporation under section 622 (*now* 599), and the actual expenses may under section 629 (*now* 605) be recovered in instalments spread over a period of five years. Let us take one concrete illustration; if the owner is unable by reason of poverty to execute the necessary works under section 252 (*now* 253) and they are carried out at the instance of the Corporation at a cost of Rs. 50, such amount with interest at 6 per cent. may be recovered from him in instalments spread over five years; so that in such a case each annual instalment cannot exceed Rs. 13, which would be at the rate of a little over one rupee a month. It seems to me, Sir, that these safeguards will be found ample for the protection of the poor, and that there is some tendency to exaggerate the possibility of actual oppression. But even if we concede that these are not sufficient to protect the poor from any possible oppression which may result from a desire on the part of the Chairman to annoy all the poor people in the city by the strict enforcement of the provisions of section 252 (*now* 253); even if we make this assumption, it does not follow in the least that the section should altogether be omitted; the only reasonable inference is that the section should be so modified as to make the oppression of the poor impossible. Do this by every means that can be suggested; restrict if necessary the scope of this section; make it inapplicable to people who are absolutely indigent; but do not omit it altogether. I cannot conceal from myself the fact that this salutary provision is taken from the English Public Health Act, section 62, and that the corresponding rule in England which applies exclusively to the poor has worked satisfactorily. I cannot further disguise the fact that many of my countrymen who are by no means poor are, either by reason of ignorance or negligence, somewhat slow to appreciate sanitary measures; they will often lavishly spend their money in unnecessary comforts, but hesitate to take sanitary precautions; some of them at any rate have to be educated in this respect, and gentle pressure from without is sometimes necessary to protect and improve their health, safety and convenience, and may often lead to a substantial reduction of their doctor's bill."

The Hon'ble MR. APCAR said:—"May I be permitted to explain with reference to what fell from the Hon'ble Mr. Buckley? One of the circumstances I had in my mind was this, that it is possible the Corporation do not carry out the laying of the water-pipes to the extent that they ought to do, and that they have failed in bringing the pipes as near to tenements as they ought to have done; and if in these circumstances the connection would have to

be so long as 100 feet, I do not think it is fair to impose on the householder, who desires connection, to make the connection in such circumstances at his expense. I have in mind that the branch sewers, in the drainage scheme that is now being carried out, have been begun by the executive by a considerable length short of the summit in each street, contrary to the scheme actually sanctioned, and then it will come to this that those who are living at the summit will have to connect, at their own cost perhaps, with the drainage system. This is one of the circumstances why I have thought that it would be hard on owners to be compelled to connect when they will have to pay for the connection."

The Hon'ble MR. OLDHAM said:—"My only observation is that the amendment has been moved on the assumption that Calcutta is exclusively a Hindu city. On the contrary, it is a very colonial and cosmopolitan city, and it is notoriously the fact that some of the occupants and some of the owners belong to races who do fight shy of water, and the provision is wanted for them at all events."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I support this amendment. This is a provision simply authorizing the Chairman to compel certain classes to have the water-connection. The question is whether this authority should be given to him in this way. As has been observed by the Hon'ble Babu Surendranath Banerjee, people would only be too glad to get the water-connection. The old ideas about the unholiness of pure water have now been abandoned. The question is simply about their capacity to pay for it, and, as has been put forward by the Hon'ble Babu Surendranath Banerjee, that is the only ground which stands in their way, and the question is whether they should be compelled to make the water-connection. There arises a difficulty—the question of the occupier. The section contemplates the case of the owner being required to do the work. In the case in which the owner is the occupier and is poor, the argument of my friend applies in its full vigour and strength; but difficulty may arise, and the force of the argument is considerably taken away when the owner is a rich man and the occupier is not. Questionable then would be the justice of the requisition in that case. The occupier may leave the house, but the connection would improve the value of the house. I submit, Sir, that this provision, which gives an unlimited power to the Chairman to compel a man against his will, should not find a place in our statute."

[*Babu Surendranath Banerjee ; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said :—"I cannot but express my surprise—a surprise to which I have already given utterance—at the opinion of the Hon'ble Member in charge of the Bill that we Hindus do not appreciate water."

The Hon'ble MR. BAKER said :—"That is not what I said. I said people in England had appreciated the advantages of good and filtered water for many generations before the people of this country."

The Hon'ble BABU SURENDRANATH BANERJEE said :—"I think, Sir, we have learnt to appreciate the advantages of good water for the last 3,000 years. Filtered water we never had. The best water that we can find is the water of the Ganges; and the Ganges an object of reverence and worship with us, because, so to speak, it is an emblem of purity. I think that very fact—the devotion that the Hindus pay to the Ganges—is emblematic of the feeling which they entertain with regard to the importance of good water. I will not, after the explanation which the Hon'ble Member in charge of the Bill has offered, dwell upon that part of his statement.

"But the Hon'ble Member has made an admission, and it is in support of my amendment, that everyone who can afford it will have a house-connection. Therefore it is only the poor who will not have house-connection, and, if so, is it right and proper to force them to make this connection when they adopt the necessary means of taking water from the hydrant? The Hon'ble Mr. Buckley has pointed out that the analogy of the English law is not applicable to this case. But the Hon'ble Member in charge of the Bill professes to base this section upon the English Public Health Act. The circumstances are different, and we have the high authority of the Hon'ble Mr. Buckley in support of this view. So far as this particular matter is concerned, there is absolutely no justification of any kind—not even the apology of a precedent—upon which it can be based. It is not English law—at least the analogy of the English law does not hold good—and yet the Hon'ble Member wants to arm the Chairman with the power of compelling a poor man to have house-connection established.

"Something has been said about the charge not being a recurring charge. I admit that, but, Sir, it will cost the poor man about Rs. 40 or Rs. 50 to have the connection between the main situate at a distance of nearly 100 feet and his house. Am I to understand that Rs. 40 or Rs. 50 is of no consequence to the

[*Babu Surendranath Banerjee; the President; Dr. Asutosh Mukhopadhyaya.*]

poor man? Possibly he has never seen Rs. 40 or Rs. 50 in his life. He has never been able to amass that amount. It is a substantial consideration to the poor man, and I must say it is a great hardship to compel him to spend this money when there is no necessity for it. He undergoes the trouble of taking the water from the hydrant. If he had the means, would he undergo this labour and trouble? Here we have considerations based upon the natural impulses of the man which tell against this section. It is because he has not got the means that he has not got the water connection, and is it right and proper that he should be forced to have the water connection when he is able to get water from the hydrant by taking the trouble for it? I do not think that is a right procedure to follow.

"My friend the Hon'ble Dr. Asutosh Mukhopadhyaya was good enough to say that, unless we had a section like this, probably the doctor's bill would swell. The poor of Calcutta for the last 50 years have gone on without a section like this. I do not know that the doctor's bill is at all relevant to the matter, but I will say this that if this section were placed before representatives, say, 50 or 100 or 200, of the Hindu community noted for their habits of cleanliness, intimately conversant with the ways and the feelings of the people, they would say 'no' to this section, and we, as the representatives of the people, echo their sentiments. I desire to record my strong protest against a section of this kind, which is likely to operate with hardship upon a class of people who deserve the special protection of the Government."

The Hon'ble THE PRESIDENT said:—"We will take a vote on this amendment on 22nd instant."

The further consideration of the motion was then postponed.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 252 (*now* 253), line 2, after the word "building" the words "to which the provisions of section 247 (*now* 250) are not applicable" be inserted.

He said:—"My suggestion is that the provisions of section 252 (*now* 253) should not be applicable to buildings to which the provisions of section 247 (*now* 250) are applicable. The provisions of section 247 (*now* 250) apply to a building in the occupation of a tenant. I venture to think that when a tenant is in occupation we may leave him to his remedy under sections 247 and 248 (*now* 250 and 251), and when the owner is in occupation we may apply the

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; the President.*]

provisions of section 252 (*now* 253); otherwise there might be some inconsistency. Section 247 (*now* 250) provides that--

"(1) Any occupier of a masonry building who holds the same direct from the owner may, by written notice signed by him, require the owner to provide all such necessary works as may be required for bringing into the premises a supply of filtered water for domestic purposes and a supply of unfiltered water for the purposes specified in section 225E (*now* 246) sub-section (2).

(2) Every such notice shall contain an undertaking on the part of the occupier—

(*a*) to pay, during the residue of his term of occupation, interest at the rate of one *per cent. per mensem*, calculated from the date of the completion of the works, on the cost of all works so provided by such owner, and,

(*b*) if the premises do not abut upon some street in which there is a supply-main, to pay the cost of connecting the premises with the nearest supply-main."

"It is clear, therefore, that, if the occupier wants to have the benefit of the water-supply, he can have it only on certain terms. Under section 252 (*now* 253), on the other hand, he would be entitled to have the same benefit without the same liabilities. I do not think that is either just or could have been intended. Section 247 (*now* 250) is taken from the present law, whereas section 252 (*now* 253) is taken from the English Public Health Act; and this probably explains the anomaly I have just referred to, because I cannot find in the English Public Health Act any provision corresponding to our section 247 (*now* 250). If the occupier does not think that there is any necessity for water-supply, leave him in that position, for we may be quite sure that, when the occupier absolutely needs water and can get it in at the expense of the owner, he will not lightly miss the opportunity."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The Hon'ble THE PRESIDENT said:—"I should like to ask the Hon'ble Dr. Asutosh Mukhopadhyaya a question. What is to happen in the case in which neither the owner nor occupier proposes to make the house-connection? Under section 247 (*now* 250) the occupier may insist upon the house-connection being made, but if the occupier does not move, and the owner does not move, and it is a house in which the occupier is a person of ample means, and for sanitary reasons the Chairman wishes to insist upon house-connection. What is to be done if we make this addition here?"

[*Dr. Asutosh Mukhopadhyaya; Mr. Bolton; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am afraid, Sir, I have not made myself clear. My contention is that, if the occupier under section 247 (*now* 250) is in a position to get the benefit of the water-supply at the cost of the owner, he is not likely to lose the benefit. We may take it practically that if he needs the thing and can get it at the expense of the owner he will at once have recourse to section 247 (*now* 250); the difficulty pointed out is not likely to arise in practice. I must admit, however, that, if the case does arise, the section, as I propose to restrict it, will not supply an adequate remedy."

The Hon'ble MR. BOLTON said:—"I am afraid difficulty will arise, because it may frequently not suit the occupier to press the landlord under section 247 (*now* 250). He may hold on such a tenure that the landlord may be able, if he is threatened with a heavy expenditure under this section, to eject him from the house, or to cause him to leave it subsequently. The occupier will not always be free, even when he needs the water, to take recourse to this section. It is advisable, therefore, that the power of the Chairman under section 252 (*now* 253) should not be restricted as proposed by the Hon'ble Member."

The Hon'ble MR. BAKER said:—"As I understood this matter when I discussed it with the Hon'ble Dr. Asutosh Mukhopadhyaya, he was afraid that occupiers would try in some manner or other to get action taken under section 252 (*now* 253) instead of section 247 (*now* 250), because, if they act under section 247 (*now* 250), they have to pay for it, whereas if they take action under section 252 (*now* 253), they then escape payment because the owner has to pay in the first instance."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"It seems to me inconsistent that it should be open to the occupier to proceed either under section 247 (*now* 250) or under section 252 (*now* 253), and obtain the same relief in either case upon very different terms. If he proceeds under section 247 (*now* 250), he has to pay for the benefit he receives, whereas, if he has recourse to section 252 (*now* 253), he can compel the owner to execute the necessary work without ever paying anything for it. This is so manifestly unjust that, but for what has fallen from one Hon'ble Member, I should have thought the position absolutely unsustainable. If the Council is of opinion that

the Chairman should be entitled to proceed under section 252 (*now* 253) whether the building is in the occupation of the owner or of the tenant, then I venture to think that section 252 (*now* 253) will have to be redrafted to make the provision harmonious with section 247 (*now* 250)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I can suggest a way out of the difficulty, and that is to omit this section altogether."

The Hon'ble MR. BUCKLEY said:—"If the Hon'ble Member will look at the Public Health Act, he will see that the intention was that this power to have the water-connection is only to be exercised in the case of very poor people: special mention is made of persons who can only pay two pence a week."

The motion being put, the Council divided as follows:—

Ayes 7.	*Noes 11.*
The Hon'ble Mr. Buckley.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Buckland.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhayaya.	The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.
The Hon'ble Mr. Mackenzie.	The Hon'ble Babu Jatra Mohan Sen.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.	The Hon'ble Babu Boikanta Nath Sen.
The Hon'ble Mr. Oldham.	The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Mr. Baker.	The Hon'ble Mr. Apcar.
	The Hon'ble Mr. Spink.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name, that at the end of section 252 (*now* 253) be added "within a time, not less than thirty days, to be specified in such notice."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, also withdrew the motion, standing in his name, that to section 252 (*now* 253) the following paragraph be added:—

"If such notice is not complied with within the time to be specified, the Chairman may, if he thinks fit, execute such work and obtain such supply, and any

[*Dr. Asutosh Mukhopadhyaya; the President; Mr. Baker; Babu Surendranath Banerjee.*]

expenses incurred by him in this behalf may be recovered from the owner as if it were an arrear of consolidated rate due from him."

He said:—" Apparently these two amendments are substantially covered by the provisions of section 622 (*now* 597) of the Bill."

The Hon'ble THE PRESIDENT said:—"There are a number of amendments of the Hon'ble Member on later sections, all in the same terms."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"They will be withdrawn when we come to them."

The Hon'ble THE PRESIDENT said:—"We postponed amendment No. 161* just now, but the Hon'ble Member in charge of the Bill has spoken to me about the matter and he will make a statement."

The Hon'ble MR. BAKER said:—"The Hon'ble the President has suggested that a proviso to the following effect be added to section 252 (*now* 253):—

"Provided that no action shall be taken under this section in any case in which the owner satisfies the Chairman that he is too poor to bear the cost of the said works."

"The object of that proviso is to give effect to what must be the real fact in any case. If the owner of the premises is too poor to bear the cost of making the water-connection, it is quite certain that the Chairman cannot and ought not to enforce the provisions of the section. This amendment merely gives statutory effect to that limitation. Therefore, with Your Honour's permission, I move that this addition be made to the section."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I thankfully accept this, and I withdraw my amendment No. 161* in favour of the proviso to section 252 (*now* 253)."

The Hon'ble MR. BAKER'S motion was then put and agreed to.

SECTION 262.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 253A (*now* 262), for the words from "he may replace them" to the end of the section, the following be substituted:—

"he may, by written notice, require the owner of the premises to replace or improve them, and if the owner fails to make the necessary alterations within seven days."

* That section 252 (*now* 253) be omitted—*vide* page 849, *supra*.

He said:—"With reference to this motion, I have placed myself in communication with the Hon'ble Member in charge of the Bill; he accepts the principle, but suggests that the wording should be slightly modified; the section as re-drafted will read as follows:—

'If any pipes, taps, works or fittings connected with the supply of unfiltered water for the flushing of privies or urinals in any premises be found, on examination by the Chairman, to be defective, he may, by written notice, require the owner of the premises to replace such fittings or to make such alterations therein as may be specified in the notice.'

"Section 253A (*now* 262) as it stands apparently authorises the Chairman, as soon as he discovers that pipes, taps, works or fittings are defective, to replace them at once without notice to the owner, and without even giving him an opportunity to carry out the necessary works. That could not have been intended. If you look at other parts of the Bill, you will find that in similar cases a written notice is given in the first instance to the owner, requiring him to carry out the necessary alterations, and it is only when he fails to do so that the Chairman takes action; this is reasonable and my amendment in substance is to that effect."

The Hon'ble MR. BAKER said:—"I accept the amendment. It has been considered by Mr. Buckley and myself, and we think that in this form it is open to no exception."

The motion was put and agreed to.

SECTION 269.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 254E (*now* 269), sub-section (*1*), the words "situated in a block in which the continuous system is in force" be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that sub-section (*3*) of section 254E (*now* 269) be omitted.

He said:—"Section 254E (*now* 269) is a new section; I confess, Sir, that I was somewhat puzzled as to what the object was, and my only endeavour is to give effect to what seems to me to be the intention of the framers of the law. Section 254E (*now* 269) has for its object the prevention of waste of filtered water only under the continuous system. It says:—

"(*1*) Whenever the Chairman has reason to believe that filtered water supplied to any premises situated in a block in which the continuous system is in force is being wasted, he

may, by written notice, require the owner and occupier of the premises, within a period of four days after service of the notice, to repair and make good any defects in the pipes, taps or fittings connected with the water-supply, so as to put a stop to such waste.

(*2*) If any notice issued under sub-section(*1*) is not complied with, and the Chairman has reason to believe that waste still continues, he shall cause to be served on the said owner and occupier a further notice informing them that, if the first notice be not complied with within a further period of three days, the supply of filtered water to the said premises will be cut off.

(*3*) If, after the expiration of the said period of three days, the Chairman has reason to believe that waste still continues, he shall cut off the supply of filtered water to the said premises.

Explanation.—For the purposes of this section, water shall not be deemed to be wasted if it is shown that it has been deliberately and purposely drawn for use for domestic purposes from a tap provided for the purpose."

"The section, therefore, by its very terms applies only to premises situated in a block in which the continuous system is in force. It does not apply to premises situated in a block in which the intermittent system is in force. It may appear at first sight that this latter case is regulated by the preceding section, which provides as follows :—

"(*1*) No occupier of any premises to which water is supplied under this Chapter shall negligently or otherwise suffer such water to be wasted, or shall suffer the pipes, taps, works and fittings for the supply of water, or any of them, to remain out of repair to such an extent as to cause a waste of water.

(*2*) No person shall cause a waste of water by the misuse of public stand-posts, drinking-fountains or hydrants."

"This apparently applies to all buildings whether the system in force is continuous or intermittent. But, unfortunately, the prohibition is not completely effective, inasmuch as the penalty for the infraction of the law is not sufficiently severe. You will remember that section 602 (*now* 574) provides a penalty for the first commission of an offence, while section 603 (*now* 575) provides a recurring penalty for the repetition of the same offence. Unfortunately section 254D (*now* 268) is not mentioned in section 603 (*now* 575); so that, where the intermittent system is in force, if there is wilful waste of water, under section 254D (*now* 268), sub-section (1), and section 602 (*now* 574), the occupier may be fined Rs. 50. But, once he pays the penalty, he is secure; he

[*Dr. Asutosh Mukhopadhyaya.*]

can with impunity waste as much water as he pleases. There is, however, another section which has an important bearing on the present question; I mean section 265C (*now* 283), which provides as follows:—

'265C (*now* 283). (*1*) The Chairman may cut off the connection between any waterworks of the Corporation and any premises to which water is supplied from such works, or may turn off such supply, in any of the following cases, namely—

(*a*) if the premises are unoccupied;

(*b*) if (in the case of a *bustee*) the owner or (in any other case) the occupier of the premises fails, for fifteen days after the due presentation of a bill or the due service of a notice, to pay any sum due to the Corporation from him or in respect of such premises;

(*c*) if, after receipt of a written notice from the Chairman requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water, or to permit the same to be used, in contravention of this Act or any rule or bye-law made hereunder;

(*d*) if the occupier of the premises contravenes section 225D (*now* 245) or sub-section (*2*) of section 254Q (*now* 279);

(*e*) if the occupier refuses to admit the Chairman into the premises for the purpose of making any examination or inquiry authorised by section 253 (*now* 261), or prevents the Chairman from making such examination or inquiry;

(*ee*) if the owner of the premises fails to comply with any notice issued under section 253B (*now* 263);

(*f*) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe or tap conveying water from any works of the Corporation; or

(*g*) if any pipes, taps, works or fittings connected with the supply of water to the premises be found, on examination by the Chairman, to be out of repair to such an extent as to cause a waste of water:

Provided as follows:—

(*a*) water supplied for flushing privies or urinals shall not be cut off or turned off;

(*b*) water shall not be cut off or turned off in any case referred to in clause (*b*) or clause (*g*) [now (*h*)] unless written notice of not less than twenty-four hours has been given to the occupier of the premises.

(*2*) The expense of cutting off the connection or of turning off the water in any case referred to in sub-section (*1*) shall be paid, in the case of a *bustee*, by the owner of the premises, and in any other case by the owner or occupier of the premises.

(*3*) When all moneys, for the non-payment of which water has been turned off or cut off from any premises under clause (*b*) of sub-section (*1*), have been duly paid to the Corporation, together with the expense of cutting off or turning off the water, the Chairman shall cause water to be supplied to such premises as before.

(*4*) If any money, for the non-payment of which water has been cut off or turned off from any premises under clause (*b*) of sub-section (*1*) was due from the owner of the premises and is paid by the occupier, the occupier may deduct the amount thereof from the rent of the premises, together with the expenses paid by him under sub-section (*2*).

(*5*) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.'

"This section, as I understand it, applies to both the continuous and the intermittent system; in other words, the object which is intended to be secured by section 254E (*now* 269), is also secured by section 265C, clause (*g*) [*now* section 283, clause (*h*)]. Unfortunately, however, the two sections, though they partially overlap each other, prescribe different procedures. This is certainly anomalous, and my amendment seeks to remove this defect by a very simple means. I suggest that section 254E (*now* 269), like section 265C (*now* 283), should apply to both systems, and that the same procedure should be followed in both cases to prevent the wilful waste of water. I sympathise entirely with the object of these sections, but I desire to render them harmonious, and thus to make them intelligible and easy of application. I need hardly add that when you have sections so clumsily worded as these, and even contradictory to each other, you do your best to defeat the very object you have in view."

The Hon'ble Mr. Baker said:—"This is a very technical matter, Sir, and I think the Hon'ble Mr. Buckley will deal with it more effectively than I can; but I will just explain, as well as I can, what the position is. The continuous system is not in force now in Calcutta at all. It is going to be introduced, but it will be introduced gradually, and it will take from five to seven years before it is extended fully. We thought it desirable to have a general section relating to waste and to the power of cutting off water in the circumstances which now prevail in Calcutta. These powers are provided in section 254D (*now* 268) and in section 265C (*now* 283). We also thought it desirable to have a separate section dealing comprehensively with the measures for preventing waste under the continuous system only, and those measures are all gathered

together in section 254E (*now* 269). I think the Hon'ble Mr. Buckley will probably say, with reference to the proposal to omit the words 'situated in a block in which the continuous system is in force,' that until the continuous system has been introduced it is a matter of great difficulty to know for certain whether waste is being committed or not, and that is one reason why I should demur to leaving out those words and to extending the provisions of section 254E (*now* 269) to the existing state of things in Calcutta, which would probably lead to practical difficulty and possibly to great hardship.

"Then, Sir, I would point out that the operation of section 254E (*now* 269) is limited by the explanation. In the explanation to that section a definition is given of the term 'waste,' and that applies only where the continuous system is in force. The term 'waste,' as understood by water-works engineers in Europe, does not include any water which is deliberately drawn off from the taps by the occupiers of houses. It does not matter what they do with the water which they intentionally draw off from a tap, or whether they let the tap run. That is not to be deemed waste. It means leakage. 'Leakage' is the sense in which the word 'waste' is used for this purpose. It is in the case of leakage that the provisions of section 254E (*now* 269) will be applicable.

"Then, Sir, the Hon'ble Dr. Asutosh Mukhopadhyaya said that under proviso (*b*) of section 265C (*now* 283) a notice of 24 hours has to be given before the water could be cut off under clause (*g*) [now (*h*)], and he thought it was not intended that that proviso should only apply in the case of the intermittent system, and that it was not intended to apply to the continuous system; but, if he looks at section 254E (*now* 269), he will see that much more notice than that is required under the continuous system. This matter was very fully discussed in the Select Committee. I think the Hon'ble Babu Surendranath Banerjee will remember. We wanted at first to have, I think, 48 hours' notice, and that was fully considered, and the two gentlemen who represented the Corporation urged that so short a period would be rather a hardship. We therefore extended the period to seven days, and we split it into two parts, which are provided for in clauses (1) and (2) respectively. Therefore under the continuous system there is notice of seven days, and not of one day. It is quite true, as the Hon'ble Member has pointed out, that this section gives the power to cut off the supply. It does overlap the power given in section 265C (*now* 283). I admit that that

is so, but we thought for practical purposes it is desirable, even at the risk of some apparently bad drafting, to have this double provision. The whole of the powers that we take in respect of the continuous system are conveniently gathered together in section 254E (*now* 269). The other section applies to the intermittent or existing system only."

The Hon'ble MR. BUCKLEY said:—"I think, Sir, it would be a pity, although perhaps from a legal point of view it might not be symmetrical, if the Bill was altered as the Hon'ble Dr. Asutosh Mukhopadhyaya suggests. Section 254E (*now* 269) is intended to apply only and entirely to the continuous system, and perhaps I may briefly describe to the Council why we wish to deal differently with the two systems. The Hon'ble Member wishes to make the two the same. The continuous system affords the most ingenious and simple way of discovering waste, and not the least advantage of that system is that it enables that waste to be detected with almost absolute accuracy, with hardly any inquisitorial enquiry at all in the houses of the people; and I must say it will be of very great advantage in Calcutta. At present, and under the operation of section 254D (*now* 268), it is only possible to find out whether waste is going on by actually going into the house and seeing whether the pipes or the taps are leaking, and that, as we all know, is a most unpleasant form of investigation. Under the continuous system there will be to each house a small stop-cock, that is, a tap outside the house and outside the premises altogether. That stop-cock will be accessible to the water-works authorities, and they will be able to turn it off or to get to it without going to the householder at all. When water is continuously supplied, as it will be when this Bill is fully in force, the pressure is on all day and all night in every house, and at any moment of the whole 24 hours any person can go and get as much water as they like. That is one great advantage of it. Experience at home has shown that people draw the largest quantity of water from about 8 to 10 o'clock in the morning. There is a certain amount of draught which goes on the whole of the rest of the day: but between certain hours of the night, generally from about 2 o'clock in the morning to 4 o'clock in the morning, as we can all quite understand, nobody draws any water at all, or very few indeed. Consequently, if you go at those hours of the morning and have any means of ascertaining whether water is being drawn into a house, you can ascertain, supposing a person is not drawing it deliberately, whether waste is going on or not. What is actually done in England is this: a man goes to the house

between those hours, and he goes to that stop-cock, and he has with him what he calls a stethoscope. It is nothing less than a plain steel rod. He puts one end of it at the top of the tap of the stop-cock and the other end to his ear. If any person does happen between those hours to be drawing off water, he knows it at once, because he hears a considerable sound. If any tap is opened he can distinguish it, but if no water at all is passing he will hear nothing; but if the taps in that house are leaking, even to the smallest extent, he can hear even, I am told, the very smallest quantity. He can distinguish it trickling through, and if he turns the stop-cock off a little, so as to ease the discharge, he can still hear it, and I am told that the Inspectors who go to make these enquiries are able to tell with extreme accuracy how much water a minute is passing in listening with this stethoscope to the flow of water through the stop-cock. Now, Sir, that cannot be done now, because the water in Calcutta is turned on for some hours at a high pressure, some hours at a low pressure, and some hours not at all. When the continuous system is in force it will be easy to do this, and it will be easy for all the municipal Water-works Inspectors to find out when anybody is really wasting water; and I do not hesitate to say that if they could do that to-morrow they would find out that a great quantity of water is wasted in every house in Calcutta. Consequently in section 254D (*now* 268), which applies to the present system, the intermittent supply, we have practically in this Bill made no difference from the existing law. We have left things as they are. We do not think we can improve it, but in section 254E (*now* 269), where with great accuracy we can say whether water is wasted, we apply a rigid system. We first of all, as soon as the Inspector has found that water is being wasted, send the occupier a notice giving him four days to repair his defective fittings: if he does not do that, three days more grace is allowed him; and if he will not put things right, then we then cut the water off entirely; and I think that procedure is the best one that it is possible to follow. I do not think it would be desirable to amalgamate the two systems. Although there is a little overlapping and a little technical superfluity perhaps in the law, I would ask the Hon'ble Dr. Ashutosh Mukhopadhyaya to allow the section to stand. I am quite sure that, if this system is applied, as I think it will be applied, with care and discretion, but with great inflexibility, it will result not only to the great advantage of the people, but to the material diminution of the cost of the water-supply. By the introduction of this system

in Liverpool no less than £53,000 in actual hard cash was saved in one year, and I think it would not be very difficult to show that the Municipality by failing to adopt some such system as that contemplated by the Bill—which they have full authority to do under the existing law—have wasted an enormous sum of the rate-payers' money."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"As my hon'ble friend who spoke last thinks that the object which both of us have in view will be best secured by leaving the section in its present form, which is confessedly inelegant and unsymmetrical, I will not press these amendments."

The motions were then, by leave of the Council, withdrawn.

SECTION 270.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 254F (*now* 270), sub-section (*3*), the words "or sub-section (*2*)" be omitted.

He said:—"This is really a mere matter of drafting. Under section 254F (*now* 270), sub-section (*1*),—

'If the Chairman has reason to believe that the occupier of any premises consumes more filtered water than he is entitled to under section 226 (*now* 248), the Chairman may provide a water-meter, and attach the same to the service-pipe of the said premises.'

"By sub-section (*2*)—

'If the occupier of any premises situated in a block in which the continuous system of supplying filtered water is in force makes a written application to the Chairman to have a water-meter attached to the service-pipe of the premises, the Chairman shall, within fourteen days from the receipt of the application, provide a meter and attach it to the said pipe.'

"And sub-section (*3*) provides that—

'The expense of providing and attaching a meter under sub-section (*1*) or sub-section (*2*) shall be paid out of the municipal funds.'

"Sub-section (*4*) goes on to say that—

'When a meter is to be attached under sub-section (*2*) on the application of the occupier of any premises, he shall, either—

(*a*) before the meter is attached, deposit with the Corporation the sum required for providing and attaching the meter, or

(*b*) pay rent for the meter at such rate as may be fixed by the Chairman with the sanction of the Local Government.'

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee; Raja Ranjit Sinha, Bahadur, of Nashipur.*]

"This indicates that the applicant is to bear the expenses, which seems to contradict the provisions of sub-section (3). The object of my amendment is to make the two sub-sections harmonise with each other."

The Hon'ble MR. BAKER said:—"I do not agree with my hon'ble friend Dr. Asutosh Mukhopadhyaya. This was debated a good deal in Select Committee, and the conclusion we came to was that the cost was to be borne by municipal funds, and I think that is the effect of the section. It is quite true that when an occupier asks to have a meter he is allowed as an alternative to deposit the cost of providing and attaching the meter, but that money is only on deposit, and it is provided in sub-section (5) that it is to be returned to him: therefore that cost does not fall upon him, but on the municipal funds, which was the deliberate intention of the Select Committee. I think the words in the section are right."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"After this explanation, I will not press this amendment."

The motion was then, by leave of the Council, withdrawn.

SECTION 271.

The Hon'ble BABU SURENDRANATH BANERJEE's motion that the word "five" be substituted for "four" in line 4 of section 226 (*now* 248) having been lost,* he, by leave of the Council, withdrew the motion, standing in his name, that the word "five" be substituted for the word "three" in line 6 of section 254G (*now* 271).

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "four" be substituted for the word "three" in line 6 of section 254G (*now* 271).

The Hon'ble RAJA BAHADUR RANAJIT SINHA, OF NASHIPUR, also moved that the word "four" be substituted for the word "three" in line 6 of section 254G (*now* 271).

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If the water supplied is in excess of the quantity allowed by law, I suggest that the water should be supplied at the rate of 4,000 gallons per rupee. You give the water at

* *Vide* pp. 825 to 832, *supra*.

present at that rate, and, if it is in excess of the quantity allowed, there is no reason why you should not observe the same rate unless you want to inflict a punishment. So far as the supply of water is concerned, considerations of punishment ought not to come in at all. It is one of the greatest necessaries of life in a town like Calcutta, and I hope, Sir, that, if water is supplied in excess of the 4,000 gallons to the rupee, the same rate would be observed in regard to the excess supply. I think that is fair."

The Hon'ble MR. BAKER said:—"I cannot accept the Hon'ble Member's amendment. If the statutory supply is fixed at 4,000 gallons to the rupee, then a higher rate ought to be charged on any water which is taken in excess of that statutory allowance. The water is not sold to the public at all. The water-rates are the proceeds of a tax. All people are taxed, whether they have house-connections or not, and the statutory supply is fixed on the assumption that each person will receive a certain fixed amount. If any person takes more than that amount, he reduces *pro tanto* the supply of water available for other people, and it is necessary to discourage that by every legitimate means. Therefore, any water which he takes over and above the amount which he is entitled to and which is sufficient for him, he ought to pay for, not at the original prime cost, but at an enhanced rate. I may add that the British Indian Association, who are much interested in the matter, in their representation to the Council have expressly approved of that principle."

The Hon'ble MR. BUCKLEY said:—"I quite agree in the remarks made by the Hon'ble Mr. Baker, and I wish to add this further argument. There is reason to believe that the people who most largely exceed in their consumption of more water than they are entitled to are those who are best off—the men of wealth. Under the section of the Bill which has to-day been approved by the Council, any large houses which are assessed at high rates, and which are presumably occupied by the wealthiest people, will very often be entitled to as much as 60 or 70 gallons per head per day—an utterly preposterously large amount, especially when you consider that in those large houses there are a great many dependents who will not use anything like that quantity. I think it is perfectly right in the interests of everybody, especially in the interests of the Municipality, that the wealthy, if they choose to take more water than they can

[*Mr. Buckley; Raja Bahadur Ranajit Sinha, of Nasipur; Babu Surendranath Banerjee.*]

reasonably be expected to require, should pay a high price, and, so far from reducing the price, I should be disposed to make it even higher."

The Hon'ble RAJA BAHADUR RANAJIT SINHA OF NASHIPUR said:—"My amendment is identical with that of my hon'ble friend Babu Surendranath Banerjee, and I would ask that they be taken together. When the cost price of 1,000 gallons of water is only three annas, Sir, I do not think it is unreasonable for us to ask 4,000 gallons per rupee."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to say a few words with reference to what has fallen from the Hon'ble Mr. Buckley. The consumption of water will not depend upon the wealth of the person. It will depend upon the number of members of his family. If a man has a large family, he will consume a larger quantity of water than another man who may be much wealthier than himself but has a smaller family. Therefore, you have to look at the matter from this point of view, *viz.*, that the consumption of water is not determined by considerations of wealth, but is largely dependent upon the number of inmates he may have who live in the same house, and we have got a proverb in our language, which perhaps I may be permitted to quote. We say that where the goddess *Lakshmi* is absent, there the number of children is predominant, that is to say, the poorer the people, the more likely are they to have a numerous family. The point which I want to lay before the Council is this: that the consumption of water is not determined by considerations of wealth, but it depends upon the number of people who live in the same family; and if a man happens to be poor and he has a large number of people in the same house, he would require a much larger quantity of water than the richer man would.

"Then, Sir, I proceed upon the analogy of the present law. The present law lays down that water is to be supplied at the rate of 3,000 gallons to the rupee, and on any excess of the statutory allowance the same rate is to be observed. If any body wants the water, he pays for it at the rate of 3,000 gallons to the rupee. You have already, Sir, legislated that the water which is to be given to a rate-payer to be 4,000 gallons to the rupee, and following that analogy you ought to give 4,000 gallons to the rupee for the excess supply.

[*Babu Surendranath Banerjee; Mr. Oldham.*]

"Section 155 of the existing law provides that:—

'The occupier of every house connected with the water-supply shall be entitled to have, free of further charge, three thousand gallons of filtered water for every rupee paid to the Commissioners as water-rate on account of such house, to be supplied from the service pipes of the Commissioners for domestic use, through a ferrule of the size prescribed in the ninth schedule. If the Commissioners have reason to believe that the occupier of any house consumes more filtered water than he is entitled to as aforesaid, it shall be lawful for the Commissioners to provide a water-meter at their own expense and attach the same to the water-pipes of the said house; and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid, shall be paid for by him at the rate of one rupee for every three thousand gallons.'

"You have allowed to the occupier 4,000 gallons per rupee, and therefore I think you ought to follow the analogy of the present law, and say that the water to which he shall be entitled in excess of the statutory allowance shall be at the rate of one rupee per every 4,000 gallons. I follow the analogy of the present law, and I think my hon'ble friend the Member in charge of the Bill ought not to object."

The Hon'ble MR. OLDHAM said:—"I think the Hon'ble Babu Surendranath Banerjee has introduced some new matter in his reply, to which I should like to have permission to reply. He has referred to the provisions of the existing law as regards the meter system.' I believe the facts are that that provision has never been applied, and no meter has ever been used in Calcutta except privately, whereas this law will be strictly applied."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The meter is only a means of ascertaining the quantity of water."

The Hon'ble MR. OLDHAM said:—"It has never been enforced."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The principle under the present law is that you give 3,000 gallons for the rupee, and when you give anything in excess of the statutory allowance you follow the original principle of 3,000 gallons for the rupee. I ask the Council to endorse the principle which is to be found in the existing law as regards the excess."

The motions being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

SECTION 276.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "evidence" in line 4 of sub-section (*2*) of section 254M (*now* 276), the following words be inserted:—

"until the contrary has been proved."

He said:—"I understand this is merely a question of drafting, and in order to make the matter quite clear I suggest the insertion of the words 'until the contrary has been proved' or 'until it has been rebutted.'"

The Hon'ble MR. BAKER said:—"I think the section as it stands is quite clear. That is the way in which similar provision is ordinarily made in Acts of the Legislature. We say that it shall be evidence. We do not say that it shall be conclusive proof: therefore, it means that it may be rebutted."

The motion was then, by leave of the Council, withdrawn.

SECTION 278.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for sub-section (*1*) of section 254P (*now* 278) the following be substituted:—

"Whenever the Corporation consider that the supply of filtered water to Calcutta is more than sufficient to provide for the requirements thereof, they may, subject to such terms

and conditions as they may think fit, consent to deliver such quantity of filtered water *per diem* as they may think fit into reservoirs or pipes placed in—"

and that sub-section (*2*) be omitted.

He said:—"This is a matter of considerable importance. But may I be permitted, in substitution of the amendment which I have just moved, to move the amendment which has been prepared by the Hon'ble Member in charge of the Bill and which I accept, and which, I think, will be a solution of the difficulty, and I am thankful to him for it. It is that, for section 254P (*now* 278) the following be substituted, namely:—

Supply of filtered water to adjacent Municipalities and Cantonments.

'254P (*now* 278). (1) The Corporation may at any time, on receiving an application from the Municipality or Cantonment concerned, direct, by resolution, that such quantity of filtered water *per diem* as may be specified in the resolution shall be delivered into reservoirs or pipes placed in—

(*a*) any of the following municipalities or cantonments:—

Municipalities.

Barnagore.	North Barrackpore.
Cossipore-Chitpore.	North Dum-Dum.
Garden Reach.	South Barrackpore.
Garulia.	South Dum-Dum.
Kamarhati.	South Suburban.
Maniktola.	Titagar.

Cantonments.

Barrackpore.	Dum-Dum; or

(*b*) any municipality which is hereafter formed by subdividing any municipality mentioned in clause (*a*), or by uniting into one municipality any of the municipalities mentioned in that clause;

and that for all water so delivered payment shall be made at such rate, not being less than the actual cost to the Corporation, as may be prescribed in such resolution.

(2) An appeal shall lie to the Local Government from any refusal by the Corporation to pass any such resolution, or from any direction given by the Corporation in any such resolution.

(3) Before deciding any such appeal, the Local Government shall consider any representation made by the Corporation with reference thereto.

(4) No order made on any such appeal shall direct the delivery of water at a lower rate of payment than the actual cost to the Corporation.

(5) Every order made by the Local Government on any such appeal shall be final.'

[*Babu Surendranath Banerjee; Mr. Baker.*]

"This is a great departure from the provision in the Bill, which took away the power entirely from the Corporation. That provision laid down that, when the Local Government should be of opinion that the town of Calcutta had more than an adequate supply of water, the Local Government might direct the Corporation to extend the supply of water to certain municipalities specified in that section, and then it would be the duty of the Corporation forthwith to carry out that order, and, furthermore, the price at which the water was to be given to these various municipalities was also to be determined by the Local Government. Under the amended section, the power is left in the hands of the Corporation in the initial stage. The Corporation is to determine the question as to whether water is to be given to these municipalities or not. The Corporation is to determine the price at which the water is to be given, and the only power which the Government assumes in this connection is that, if the municipality which has made the application is dissatisfied with the order of the Corporation, then it may make an application to the Local Government, and the Local Government is to pass final orders. The discretion of the Local Government is fettered by the consideration that the Local Government is not to award any cost which shall be below the cost price to the Corporation of the water to be supplied. Having regard to the very considerable concession which has been made by the Hon'ble Member in charge of the Bill in modifying this section of the Bill, I have great pleasure in laying it before the Council, and I hope it will be unanimously accepted."

The Hon'ble MR. BAKER said:—"I accept the amendment. It has been prepared by me and the Secretary after much consideration, and I think it affords a very fair compromise of a matter about which there was a great deal of ill-feeling and contention. In framing this section, I have proceeded on the analogy of the section which enables adjacent municipalities to connect their sewers with the Calcutta municipal drains. In that connection we have provided that in the first instance the matter shall be determined between the Corporation and the local municipality concerned, and, in the event of disagreement, that an appeal shall lie to the Local Government, whose orders are to be final. That is the principle which has been adopted here, and I beg therefore to support this amendment."

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Buckley.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The provisions of section 254P (*now* 278), as it stands in the Bill, are subject to a very important qualification, namely, before filtered water is supplied to adjacent municipalities and cantonments, it must be ascertained that the supply is sufficient to provide for the requirements of Calcutta. In the section which is proposed to be substituted, there is no similar restriction. I presume, however, that it is not intended to alter the law in this respect, and I shall be glad to be assured that the omission is not intentional."

The Hon'ble MR. BAKER said:—"The reason is that in the former case the matter rests with the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The discretion is the discretion of the Corporation. The Corporation may determine, and therefore the Corporation will arrive at a determination after the consideration of the facts of the case. If the Corporation is of opinion that it has not an adequate supply of water at its disposal to extend to other municipalities, the Corporation will say 'no' to any application of that kind. I think the point is met by the discretion which is vested in the Corporation."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I support the amendment. If it is accepted, I shall be glad to withdraw my amendment that the words 'on the recommendation of the Corporation' be inserted after the word 'considers' in line 2 of section 254P (*now* 278). When with the money of the rate-payers water-works are constructed and the water-supply is still maintained, I think it but right that their representatives ought to have a voice in the determination whether or not water should be given to a neighbouring municipality, and, if so, at what rate, and I think the Corporation is the best authority to inform the Government if the water-supply in Calcutta is more than sufficient for the wants of the inhabitants of the town itself."

The Hon'ble MR. BUCKLEY said:—"If there is one fact which is more striking than another in connection with the continuous system of water-supply which it is proposed to introduce into Calcutta, it is that a constant supply in lieu of an intermittent supply actually reduces the demand. This fact will, I think, remove a great deal of the difficulty in accepting this amendment. When

[*Mr. Buckley; Raja Ranajit Sinha, Bahadur, of Nashipur; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya; Babu Jatra Mohan Sen.*]

you establish a continuous supply in any town, it enables people to get as much water as they want and at whatever time they want it, and, when that is done, there will be less waste and actually less water used. Hon'ble Members may hesitate to believe that this can really be true. I had a statement compiled for the information of the Select Committee, which refers to twenty-five towns in Great Britain, and in every case it was found that the result of introducing the constant supply, with a proper system of check, has been that the reduction in the consumption has been very large. In many cases the quantity of water has been reduced by one-third and one-half without any compulsion, or penal rate, being imposed. The people do it of their own accord. I feel confident that if the constant-supply system is introduced in Calcutta, with a proper system of check, there will be a saving of money, and there will be a saving of water, which can be sold with advantage to neighbouring municipalities."

The motion was then put and agreed to.

The last motion having been agreed to, the Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the motion, standing in his name, that the words "on the recommendation of the Corporation" be inserted after the word "considers" in line 2 of section 254P (*now* 278).

The Hon'ble BABU SURENDRANATH BANERJEE also, by leave of the Council, withdrew the motion, standing in his name, that for the last three lines of sub-section (*2*) of section 254P (*now* 278) the following be substituted:—

"as may be determined by the Corporation."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also, by leave of the Council, withdrew the motion, standing in his name, that in section 254P (*now* 278), sub-section (*1*), line 3, for "Calcutta," be substituted "the area to which the present Act is applicable."

The Hon'ble BABU JATRA MOHAN SEN also, by leave of the Council, withdrew the motion, standing in his name, that in section 254P (*now* 278), sub-section (*2*), line 3, the words "ten *per cent.* over" be inserted after "less than."

[*Raja Ranajit Sinha Bahadur, of Nashipur; Mr. Baker; Babu Surendranath Banerjee.*]

SECTION 279.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, moved that after sub-section (*2*) of section 254Q (*now* 279) the following be added:—

"Provided that this sub-section shall not apply to water taken by travellers for use on a journey."

He said:—"This is a simple matter. The object of my amendment is to secure a clear provision in the matter which is also in practice now. If a person who resides in Calcutta or visits it on some business at the time of leaving Calcutta carries some water for his use during journey, I do not think it will involve any appreciable loss to the municipality. Practically it is now done, and will be done in future, and no one will be able to check it; so I think it is better to make a clear law in the matter."

The Hon'ble MR. BAKER said:—"It was never intended to prevent a person who is going on a journey from taking a small quantity of drinking-water with him. I think this amendment is hardly necessary; but, if the Hon'ble Member presses it, I will not object."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, in reply, said:—"I thought a clear provision on the subject was necessary."

The motion was then put and agreed to.

SECTION 283.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, moved that clause (*b*) of sub-section (*1*) of section 265C (*now* 283) be omitted.

THE Hon'ble BABU SURENDRANATH BANERJEE also moved that clause (*b*) of section 265C (*now* 283) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that, if the last amendment be lost, the following should be substituted for clause (*b*) of section 265C (*now* 283):—

"(*b*) if (in the case of a *bustee*) the owner, or (in any other case) the occupier of the premises fails, for fifteen days after due service of a notice, to pay any sum due to the Corporation on account of the consolidated rate from him or in respect of such premises."

[*Raja Ranajit Sinha, Bahadur, of Nashipur; Babu Surendranath Banerjee.*]

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, said:—"This section gives power to the Chairman to cut off the water-supply to any house for non-payment of any sum due to the Corporation. As the law gives ample powers to the Chairman for the prompt recovery of municipal dues, I do not find there is any necessity for the insertion of this clause. If the water-supply of a house be cut off, the health of the residents of the house would suffer. In my opinion, therefore, this provision of the Bill should be omitted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have a similar amendment in my name, and I entirely agree with my hon'ble friend that this provision is unnecessary. The powers of distraint and sale with which the Corporation is armed are amply sufficient for all purposes, and this power with which the officers of the Corporation are armed to cut off the water-supply is seldom resorted to, except in extreme cases. If it is found necessary to have some provision of this kind, the existing law supplies us with it. I would call the attention of the Council to section 162 of the present Act, in order to show the difference between the present law and the law which it is proposed to enact under the provisions of this Bill. Under the existing law,—and I have already observed that the existing law is not usually enforced,—all the power which the Executive possess is this, that if default is made only in respect of one rate, namely, the water-rate, then, and then only, are the Executive entitled to cut off the water-connection; but under this Bill the Chairman may out off the water-connection if the occupier fails for 15 days after due presentation of a bill not only for the water-rate as in the existing law, but for *any* sum due to the Corporation, not in respect of the premises concerned only, but in respect of any other premises belonging to the same person. Therefore in this Bill we have an amplification of the present law. Moreover, that law is not always resorted to. If it could be shown that it was frequently resorted to, and that the powers conferred by it are not sufficient, I could understand the enactment of a provision like the present one. I do not know whether any application has been made by the Executive with regard to the extension of the powers they now possess. I do not think they have. They do not want these powers extended and amplified. Why, then, handicap this measure, already sufficiently unpopular, with a coercive provision which will lie as a dead-letter? This provision, I am

[*Babu Surendranath Banerjee.*]

almost certain, will never be put into requisition. There is a class of bills to which I desire to call the attention of the Hon'ble Member in charge of the Bill. I think the Hon'ble Member is acquainted with certain bills which are known as miscellaneous in the Municipality for works supposed to be done on requisition made by the municipal authorities. Most scandalous transactions have taken place in connection with these bills. Mr. Leo felt the scandal to be so great that he made it a rule that none of these bills should be paid by the authorities unless and until the bills had been certified by the parties concerned to be correct. The other day a work was supposed to be done in a particular place and a miscellaneous bill was drawn out, and I believe the Warrant Department was required to realise the dues; but, strange to say, the discovery was subsequently made that no work had been done in respect of those particular premises! Is it right and proper that a further coercive provision for the recovery of municipal dues should be enacted, when the validity of those dues might be questioned? I have no objection to the water-supply being cut off for non-payment of the water-rate, but do not cut off the water-supply as a means of enforcing the payment of other dues. Water is the life of the people; do not cut it off for the non-payment of bills which may be a huge fiction, or which may be so manipulated as to serve the purposes of unscrupulous underlings. I speak with some amount of feeling because I know how unscrupulous municipal underlings can be, and I shall be exceedingly sorry if this section is enacted. What constitutes the due presentation of a bill? The bill is supposed to be presented by a sircar on Rs. 8 a month, who may or may not present it as it suits him, but he will certify all the same that he has presented it. In the investigation which the Vice-Chairman made into the working of the Warrant Department, in case after case it was discovered that the certificate of the sircar was absolutely false, and the bills were never presented. And is it right, is it necessary, that, for the non-payment of any sum due, the water-connection should be cut off? I say 'no.' I hope, having regard to these circumstances, that clause (*b*) will not be passed, and I must earnestly entreat the Council not to go beyond the four corners of the present Act. Cut off the water-rate on failure to pay the water-rate; no further powers are needed or have been asked for. I say that, if you grant further powers, the effect will be disastrous, and therefore I ask the Council to keep the law as it is, because I am certain that they are amply sufficient."

[*Mr. Baker ; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"I am strongly opposed to this amendment, and I trust the Council will leave the Bill as it is. The Hon'ble Mover of the amendment began by saying that under the present law the water-supply can only be cut off for non-payment of the water-rate. What is the water-rate? It has no separate existence whatever. It is a mere percentage of the consolidated rate; and the provision to which the Hon'ble Member referred in the present Act is a mere error in drafting.

"Then the Hon'ble Member said that that power is very seldom resorted to under the present law. That is quite true, and that is a somewhat strong point in my case in favour of retaining this section in the Bill. It seldom happens that the water-connection is cut off, but it frequently happens that the Executive have to threaten to cut it off, and these threats are found almost invariably to be at once effective. The Chairman of the Corporation attaches the greatest possible importance to this power, and he says that without it he would scarcely be prepared to take the responsibility of collecting the municipal dues. Wealthy people, he says, habitually refuse to pay municipal dues, although perfectly able to do so; but you have only to issue a notice that, if the sum due is not paid within 24 hours, the water-connection will be cut off: and then the money is paid at once."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Does the Chairman refer to the provisions of this Bill or to the present Municipal Act when he says he will not be able to collect the municipal dues?"

The Hon'ble MR. BAKER said:—"Of course, under the present Act the Chairman has only the power to cut off water-connection on non-payment of the consolidated rate.

"The Hon'ble Member has told us of grave scandals that occur in connection with the recovery of what are known as miscellaneous bills for works done under requisition by the Corporation, and he mentions one case in which no work was done and yet a bill was made out and payment was enforced. But how will such abuses be affected by this provision of the Bill? Suppose a bill is made out for work which was never done, and that the bill was certified by a responsible officer, and this very power to enforce payment by cutting off the water-connection is exercised, what will happen? How will the amount be recovered? Why, by only threatening to cut off the water-connection. And is it

not a greater scandal that a distress warrant should be issued on a fictitious bill than merely a threat to cut off the water-supply?

"The Hon'ble Member says that a threat of this kind will jeopardise the health of the people. Even if you go to the length of cutting off the connection, is there not a hydrant in the streets at every hundred and fifty yards? Can the residents of that house not get their supply of water from the nearest standpost? It will put them to a little inconvenience,—and it is intended that it should do so,—but their health cannot be affected. It is the inconvenience and the small expense the tenant will have to incur in having to fetch water from the street that will induce him to pay the bill at once. This method of collecting municipal dues is exceedingly effective, and it will be most unwise to refuse it as a means of recovering all dues of the Corporation. It is a simple, easy and effective way to recover what is due, and it is better to recover it in this way than by the tedious and sometimes harsh process of distraint."

The Hon'ble MR. OLDHAM said:—"I have only to add to what the Hon'ble Member in charge of the Bill has said that this time last year, just before the *Puja* holidays, an application was made by the Executive to resort to this means of recovering municipal rates and taxes on a most extensive scale by a gentleman whose name I refrain from mentioning only because I fear to expose him to further unpopularity as an officer of the Corporation, and this gentleman said that, if this mode of recovery were adopted, there would be no necessity to carry out the threat, for in most cases the amount due is at once paid."

The Hon'ble MR. BUCKLEY said:—"The Hon'ble Babu Surendranath Banerjee made it a great point that water is a sanitary necessity. In one respect it is so. There are a good many houses in Calcutta where privies and closets are supplied with unfiltered water, and if the water-connection were cut off it might be a serious detriment to the inhabitants of that house and of even the neighbouring locality; but we have made special provision in the Bill that the water which is supplied for these purposes cannot be cut off. We have given a separate stop-cock for these purposes, and to that extent no harm will arise by cutting off the water-connection to the house. If a man owes you money, and you have a simple means of making him pay it, why should not you exercise that power?"

[*Mr. Apcar ; the President.*]

The Hon'ble MR. APCAR said :—"The Hon'ble Member in charge of the Bill is not aware of the great amount of oppression there is in connection with the system of making out these miscellaneous bills. I doubt whether he knows in what a large percentage the charges in relation to the work done are excessive. I do not think it right to force a person to admit the correctness of a claim which he is disputing by putting penal clauses into operation. We know that it is entirely in the hands of certain men to insist, and very possibly in their own pecuniary interest, that certain claims shall be regarded as good and fair claims, and the Chairman will be pressed to take action in this way when persons against whom claims are made, it may be, are contesting the validity of the claim. I do not think it right that this should be permitted.

"Furthermore, I submit, that it is an insanitary measure to cut off the water-connection from any house. Under section 252 (*now* 253), it is held to be a sanitary measure to compel persons to connect their premises with the water-supply, and here there is a provision deliberately made to cut off that which is considered a sanitary necessity. I think it is far better that action should be taken under the distraint and warrant process. It may imperil the health of a household if the water-connection is cut off in the way which is contemplated under this section. It may be that the threat will be put into execution. I object to this provision, firstly because it may be employed as a means to compel a person to admit a claim which he is disputing, and also because cutting off the water-connection may affect the health of the household and even part of the neighbourhood. I would omit this section altogether, but if it is retained its application should be restricted to claims of a definite character, in respect of which there is no dispute; but, if you put it into force in the case of these miscellaneous bills, it will open a door to most iniquitous proceedings in some cases."

The Hon'ble THE PRESIDENT said :—"Suppose the recipient of a miscellaneous bill disputes its correctness, would the Hon'ble Member have the Corporation wait fifteen days before the Chairman can act?"

The Hon'ble MR. APCAR said :—"In legislating in the question we should not forget that persons against whom this drastic measure is proposed may be poor and ignorant, and unaware of the opportunity of the fifteen days that the Bill proposes to secure to them."

[*Babu Surendranath Banerjee; Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If a bill is presented to a person, and he disputes it, he will make a representation against its correctness. I know of one case where a person knew nothing about the bill or the work until the warrant peon actually went and distrained the man's property."

The Hon'ble MR. APCAR said:—"We are proceeding without proper enquiry; we are only making assertions here. It would have been wiser, and I should have much preferred, if there had been an enquiry, and facts properly ascertained upon which we should be able to proceed. Sircars are supposed to have duly presented these bills, but it often happens that the bills have not been presented. These proceedings are attended with a great deal of hardship."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I desire to enter my most emphatic protest against the provisions of section 265C (*now* 283), clause (*b*). In spite of the uncompromising attitude of the Hon'ble Member in charge of the Bill, I cannot persuade myself to believe that he himself fully realises the unjust and mischievous consequences which may result from its enforcement. These provisions are of a too sweeping and needlessly stringent character. To enable you to realize accurately the scope of the section, I will take some concrete illustrations. Suppose that the owner of a *bustee* is also the owner of several houses; he pays the *bustee* rates, having collected them from the *bustee* tenants, but he omits to pay the tax due in respect of some other house belonging to him. Would it be open to the Chairman to cut off the water-connection from the *bustee*, and deprive the *bustée* people of the use of the water though they are perfectly innocent?"

The Hon'ble MR. BAKER said:—"The water-connection would be cut off from the premises on account of which the money is due."

The Hon'ble Dr. ASUTOSH MUKHOPADHYAYA continued:—"The section does not say so. Its scope is wholly unrestricted. The owner may not reside in Calcutta, and thus may be himself beyond the mischief of the section. It would therefore, be quite open to the Chairman to enforce the provisions of this section against any premises belonging to the owner. Take another illustration. The occupier of a house happens to be the owner of other houses; he pays in full the rates in respect of the house he occupies, but not in respect of

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

the other houses. Would it be open to the Chairman to cut off the water connection of the house in respect of which the rates have been paid? Then turn to section 639 (*now* 616), which runs thus:—

'(1) If, when the Chairman demands payment of any expenses under section 627 (*now* 602), his right to demand the same or the amount of the demand is disputed, the Chairman shall refer the case for the determination of the Chief Judge of the Court of Small Cause of Calcutta, or, if the amount involved exceeds two thousand rupees, to the High Court.

(2) The Chairman shall, pending the decision on any such reference, defer further proceedings for the recovery of the sum claimed by him, and shall, after the decision, proceed to recover only such amount, if any, as is thereby declared to be due.'

"But the Chairman may, meanwhile, cut off the water-connection at a time when the whole matter is pending before a Judge. I do not think that even the Hon'ble Member in charge of the Bill, with all his zeal, will be prepared to accept this as a legitimate consequence, and I submit very respectfully that this matter requires very careful consideration."

The Hon'ble MR. BAKER said:—"I will agree to an exception being made in cases in which a reference has been made to the Small Cause Court or to the High Court under section 639 (*now* 616). That is a point which was not brought to my notice."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"Along with my hon'ble friend who has spoken I certainly regret the uncompromising attitude assumed by the Hon'ble Member in charge of the Bill. This is not a question of principle, but of expediency. Our contention is that the provision is likely to be oppressive. We are bound to consider the executive point of view, but even from that point of view I do not think a case has been made out for such legislation. My hon'ble friend in charge of the Bill said that Mr. Bright expressed the opinion that he would not be able to collect the rates and taxes unless he was armed with such a power. The question is whether Mr. Bright made that observation in connection with this provision of the Bill, or in connection with the following amendment, of which I gave notice, namely, to move that the following be substituted for clause (*b*) of section 265C (*now* 283):—

"(*b*) if (in the case of a *bustee*) the owner, or (in any other case) the occupier, of the premises fails, for fifteen days after due service of a notice, to pay any sum due to the Corporation on account of the consolidated rate from him or in respect of such premises."

[*Babu Surendranath Banerjee; the President; Mr. Baker.*]

"I want to keep the present law intact, and to arm the Chairman with the power of cutting off the water for non-payment of any portion of the water-rate. I am prepared to preserve to the Chairman the power which he possesses at the present moment, but I am against any enlargement of his powers in this respect, because no case has been made out for such enlargement, and the exercise of the powers proposed to be conferred by this section of the Bill may be attended with serious hardship.

"I was sorry to find the Hon'ble Member in charge of the Bill making light of these miscellaneous bills, for he seemed to be surprised that any abuse should occur in connection with them. Miscellaneous bills are made out in many cases which are suspicious and are challenged, and to arm the Chairman with the power of enforcing the payment of these bills by the threat of cutting off the water-supply might give rise to serious oppression and hardship. What are these miscellaneous bills? They are bills for work done by the Corporation at the expense of owners who fail to comply with requisitions made upon them by the Corporation. The Corporation has not got a staff to do this work. It is done by contractors, and these contractors are in alliance with the office, and put up men in the office to make out bills in respect of some of which, at any rate, no work is done. Therefore, it comes to this, that it is these contractors on the lowest rung of the ladder who set the machinery in motion, and unscrupulous underlings will profit by the execution of this summary procedure with which the law proposes to arm the executive. Is it right and proper that such powers should be given?"

The Hon'ble THE PRESIDENT said:— "I thought the Hon'ble Member said that the act of cutting off the water was a thing which was absolutely unknown."

The Hon'ble BABU SURENDRANATH BANERJEE said:— "The Executive wanted on one occasion to cut off the water-supply in connection with the recovery of the rates, but the General Committee would not allow it."

The Hon'ble MR. BAKER said:—"Even in the cases to which the Hon'ble Babu Surendranath Banerjee referred, it was only a threat that was required."

The motions that clause (*b*) of sub-section (*1*) of section 265C (*now* 283) be omitted were then put together and lost.

[*Babu Surendranath Banerjee.*]

The Hon'ble BABU SURENDRANATH BANERJEE's motion for the substitution of a new clause (*b*) being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "in the case of a *bustee*, by the owner of the premises, and in any other case," in lines 3, 4 and 5 of sub-section (*2*) of section 265C (*now* 283) be omitted.

He said:—"This sub-section makes it obligatory that the expense of cutting off the water-connection or of turning off the water should be paid by the owner of the *bustee*. The owner may absolutely have no sort of knowledge of the matter. It is the occupier who breaks the law, but it is the owner who has to pay the expense of cutting off or turning off the water. The owner may be absolutely ignorant and in no way responsible for what has been done, and yet you make him pay. Take clause (*e*). Suppose the occupier of a hut in a *bustee* and a municipal underling have a fight, is the owner to be made to pay? I think it hard that the owner who knows nothing of these proceedings should be responsible for the expenses incidental to cutting off the water-supply in consequence not of any *laches* on his own part but of one of his tenants. It is the case of visiting the sins of one person on the shoulders of somebody else. I am certain that this provision will not commend itself to the Council."

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Buckley; Mr. Oldham.*]

The Hon'ble MR. BAKER said:— "That person has to pay the expense of cutting off the water who is responsible for the payment of the rates. In the case of a *bustee*, the *bustee* owner is personally liable to pay the consolidated rate, and that is the justification for this clause. I admit that in the special case to which the Hon'ble Member referred it may seem to be a little hard, but when you look into it a little further I do not think it is so. As far as I know, there are no house-connections in *bustees*. There are only *bustee*-connections."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"*Bustees* of the extent of 10 cottahs all have water-connections."

The Hon'ble MR. BAKER said:—"Yes, *bustee*-connections, but not house-connections."

The Hon'ble MR. BUCKLEY said:— "The *bustee*-connection is provided by the Municipality and cannot be cut off."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"My contention is that the people might waste water, and then the water-supply would be cut off. The standpost in the *bustee* is not a public one. It is semi-private or semi-public, and is used by the inhabitants of the *bustee*."

The Hon'ble MR. BUCKLEY said:— "It is not a connection made at the expense of the owner; it is made by the Municipality and cannot be cut off. It is a part of the water-supply of the Municipality."

The Hon'ble MR. BAKER said:— "It is only a house-connection that can be cut off. These *bustee*-connections are not house-connections. I have never heard of any case in which a *bustee*-connection has been cut off."

The Hon'ble BABU SURENDRANATH BANERJEE said:— "I cannot say on the spur of the moment. I believe that, in all cases in which a house-connection is cut off, it is cut off at the expense of the owner."

The Hon'ble MR. OLDHAM said:—"*Bustee*-hydrants stand in the open air in an open space, inside the *bustee*, no doubt, but in a lane or *gully*. The hydrant is not in any house or enclosure or compound, and, so far as I understand, the water-supply from that standpost cannot be cut off."

[*Mr. Apcar; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble MR. APCAR said :— "So far as my information goes, the connection is made at the expense of the owner of the *bustee*, and it can be cut off. Here, again, I desire to point to the disadvantage of legislating without facts having been properly ascertained."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 265C (*now* 283), sub-section (*1*), clause (*b*), last line, the word "or" be omitted.

He said :—"This seems to be a very small concession, but I am sure it will meet with opposition from the Hon'ble Member in charge of the Bill, because he has taken up an attitude of uncompromising hostility to whatever has the remotest tendency to soften the rigour of the law. Take the case I was putting before the Council in connection with the last amendment which has been discussed. The owner of a *bustee* owns not only that *bustee*, but also several houses. He collects rates from his *bustee* tenants and pays them in to the Municipality, but he makes default in respect of the rates due upon some of the other houses belonging to him. Is it open to the Chairman to cut off the water-connection of the *bustee*? If it is, I say it is most inequitable. What possible justification is there for making the *bustee* people suffer when they have paid their dues? You allege that by the machinery of this section you put a moral pressure on the owner, but the people who will suffer will be the *bustee* people and not the owner. The operation of the section ought clearly to be restricted to the premises in respect of which the rates are due."

The Hon'ble MR. BAKER said :— "I oppose this amendment, and it is hardly necessary for me to say much regarding it after what has been already said. This constant reference to *bustees* is really dragging a red herring across the track. Take the ordinary case—the case of a man who owns several houses, of which he lives in one, and lets out the others. If he pays the rates due on account of the house he lives in, and fails to pay the rates in respect of other houses which he owns and lets, you would not be able to touch him if this amendment is passed. I maintain strongly that you ought to be able to cut off the water from the house in which he lives if the rates on account of any other bills against him are outstanding."

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I must again deplore the uncompromising attitude which the Hon'ble Member has taken with respect to these amendments. It is not a question of touching the owner at all. You have many means of recovering your rates. You can distrain his property; you can sue the person liable to pay in the Small Cause Court; why should you cut off the water-supply from a *bustee* which he owns? The Hon'ble Member assumes a position which is absolutely untenable."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I am bound to meet the hypothetical case which the Hon'ble Member in charge of the Bill has put. The section authorizes the Chairman to cut off the water-supply if the occupier does not pay the rates. If the owner pays the rates in respect of the house he occupies, and does not pay them on account of some other house which he owns, then you can realize the rates from the occupier of this latter house, and the occupier in his turn will have his remedy against the owner. It seems to me, therefore, that if you restrict the operation of the section to the house in respect of which the rates have not been paid, there will be ample provision for every possible contingency."

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Bahadur Ranajit Sinha, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

[*Dr. Asutosh Mukhopadhyaya ; Raja Ranajit Sinha, Bahadur, of Nashipur ; Babu Surendranath Banerjee ; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that at the end of section 265C, sub-section (*1*), clause (*g*) [*now* section 283, sub-section (*1*), clause (*h*)], the words "and the owner and occupier of the premises fail to comply with a notice issued under section 254E (*now* 269), sub-section (*2*)," be added.

SECTION 284.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the motion, standing in his name, that the words "General Committee" be substituted for "Chairman" in section 265D (*now* 284).

NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following section be inserted after section 265E (*now* 285):—

"265F. The Chairman shall, in the performance and exercise of the duties and powers imposed and conferred on him by this Chapter, be subject to the control of the General Committee."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"As a matter of convenience, the General Committee and not the Chairman should have this power."

The Hon'ble MR. BAKER said:—"In the Select Committee Babu Narendra Nath Sen desired to go infinitely further, not merely to give the Chairman power to direct that wells should be filled up, but to make it compulsory that every well in Calcutta should be filled up."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I want to proceed on the analogy of the Bill. A general power of revision is given to the General Committee by section 314A (*now* 327) in respect of the filling up of tanks, wells, &c. I find that there is a similar section in regard to the lighting of streets. The water-supply is a matter of very great importance, and it is a matter which affects the public, and I ask the Council to endorse the decision of the Select Committee in regard to drains and privies and lighting, and apply it to the water-supply. What has been accepted with regard to drains and privies and the lighting of streets I should like to see adopted with respect

[*Babu Surendranath Banerjee; Mr. Buckley; Mr. Baker.*]

to the water-supply. The water-supply in one sense is far more important than drains and privies, and certainly far more important than the lighting of streets. It is expedient that a sort of general supervision should be invested in the General Committee in respect of matters relating to the water-supply."

The Hon'ble MR. BUCKLEY said:—"During the whole of the sittings of the Select Committee, day after day I raised my feeble voice against the desire of the Hon'ble Mover of the amendment to centralise. I do not see that section 314A (*now* 327) gives the General Committee control over the Chairman. It says that an appeal shall lie, which is not the same thing as the Hon'ble Member proposes to introduce here."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am prepared to accept an appeal."

The Hon'ble MR. BAKER said:—"I could not possibly accept an appeal."

The Hon'ble MR. BUCKLEY said:—"I would ask, what are the duties of the Chairman in respect of the water-supply? It almost seems to me that the Hon'ble Member's motion is directed with the view of clogging the wheels of the Municipality; for it certainly will do so. The powers of the Chairman with regard to water-supply are 31 in number, and a great many of these are entirely of a subordinate character, which he will certainly delegate to others. He may require an owner to fix a stop-cock, which would be done in England by an Inspector; he may allow alteration in the size of a ferrule; he may make certain orders about repairs to taps and fittings. These are purely technical matters. He may require meters to be repaired when out of order. These are most simple duties, which are better left in the hands of the Chairman instead of providing that the order of the Chairman shall be subject to the control of the General Committee, which seems to me to be absolutely puerile. The Hon'ble Member has told us in how many instances fictitious bills are prepared, and I believe that that fact is largely due to the endless system of centralisation which he insists upon. I believe that, if responsibility is vested lower down the scale, these instances of false bills would be unknown. I have never known such cases where you have a responsible officer who can really be readily approached by the people."

[*Mr. Oldham; Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. OLDHAM said:—"I do not remember any such proposal as this being put forward before the Select Committee. I remember the other proposal to give an appeal to the General Committee with regard to the drainage provisions, but there is no analogy between those provisions and the provisions relating to the water-supply. This chapter of the Bill applies to matters relating to water-supply only. The chapter relating to drainage confers large powers for making alterations in buildings and of entry upon premises. In cases of that sort there may be of necessity for an appeal to the General Committee. The only section in the water-supply chapter in which the General Committee is vested with any power is that for giving of water to outside municipalities. Otherwise certain obligations are imposed on the Corporation and certain duties are imposed upon the Chairman, and he is given a discretion in particular cases which are carefully prescribed, and if he deviates from the directions about them he will be amenable to the law of the land."

The Hon'ble MR. BAKER said:—"I will only add one word to what has been already said with regard to the special provision which has been lately introduced in the chapter relating to lighting. That provision was not in the original draft of the Bill. It was put in mainly because it was represented that the Ward Commissioners liked to be able to help or oblige their constituents in respect of the location of street-lamps, and the General Committee has been given a general power of control in that respect, so that they may be able to meet the wishes of their constituents to a great extent."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I think the Hon'ble Mr. Buckley labours under a delusion. He is under the impression that both Babu Narendra Nath Sen and most of the Hindu Commissioners are in favour of centralisation. Whether that charge is well-founded or not I will not now discuss, but, so far as this matter is concerned, it is not centralisation but decentralisation that we desire. This power is now centralised in the Chairman: we want to take it away and associate others in its exercise.

"The Hon'ble Member in the course of his observations characterised some of my proposals as puerile. They may or may not be puerile, but, as far as one particular matter is concerned, namely, the delegation of powers by the Chairman, it is a matter of considerable importance. It is a matter of considerable importance that there should be some control in regard to the Chairman's power of delegation. When the Chairman divests himself of responsibility and invests

subordinate officers with certain powers, might not there be an abuse of those powers? Is it possible for the Chairman to exercise effective supervision so as to prevent abuses occurring? I do not think so. I think it would be impossible for him to exercise effective supervision. It stands to reason that an appeal or right of general control should be invested in the General Committee. My conclusions follow as a matter of course from the premises laid down. I quite admit the correctness of the observation of the Hon'ble Member in charge of the Bill, that in the matter of lighting the Ward Commissioners are concerned, and it is on that ground that that concession was made. I submit that the same observations apply to the matter of the water-supply. Ward Commissioners are constantly consulted with regard to the water-supply in streets, both filtered and unfiltered; and, as the Hon'ble Member has accepted our recommendation with regard to lighting, surely he ought to accept a similar recommendation with regard to the water-supply."

The motion being put, with the substitution of the words "an appeal to" for the words "the control of," the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Council was then adjourned to Friday, the 22nd September, 1899.

CALCUTTA,
The 16th January, 1900.

F. G. WIGLEY,
Asst. Secy. to the Govt. of Bengal,
Legislative Department.

Reg. No. 784G.—300—23-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Friday, the 22nd September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

THE CALCUTTA MUNICIPAL BILL.

SECTIONS 299, 300, 307, 320, 328, 339, 340, 341, 343, 349, 368, 369 AND 383.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

"(1) that in section 287 (*now* 299)*, before clause (*a*), the words "within a reasonable time, to be specified in such notice," be inserted;

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* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering differs from the old.

[*Dr. Asutosh Mukhopadhyaya.*]

(2) that in section 288 (*now* 300), line 6, after the word "make" be inserted "within a reasonable time to be specified in such notice;"

(3) that in section 292E (*now* 307), at the end of sub-section (2), the words "within a reasonable time, to be specified in such notice, and upon failure of the owner to do so authorise the Chairman to carry out the necessary works," be inserted;

(4) that in section 292E (*now* 307), at the end of sub-section (3), be inserted "and such sums shall be recoverable in the same manner as arrears of the consolidated rate;"

(5) that in section 296 (*now* 320), sub-section (2), last line, for "paid by" be substituted "recoverable from," and that after "premises" be inserted "in the same manner as an arrear of the consolidated rate;"

(6) that in section 314B (*now* 328), sub-section (3), for "paid by" be substituted "recoverable from," and that at the end be added "in the same manner as an arrear of consolidated rate;"

(7) that to section 329 (*now* 339), sub-section (2), the following be added:—

"and, if such notice is not complied with within three days from the date of service thereof, the Chairman may cause such hedges and trees to be cut in the manner required, and the expenses thereby incurred shall be recoverable from the owner of the house or land in the same manner as an arrear of consolidated rate;"

(8) that at the end of sub-section (3) of section 329B [*now* sub-section (5) of section 340] be added "within a reasonable time, not less than fifteen days from the date of service, to be specified in such notice;"

(9) that at the end of sub-section (1) of section 329C (*now* 341) be added "within a reasonable time, not less than thirty days from the date of service, to be specified in such notice;"

(10) that at the end of section 329E (*now* 343) be added "within a reasonable time, to be specified in such notice;"

(11) that at the end of sub-section (3) of section 330D (*now* 349) be added "and, upon failure on his part to comply with such notice within a reasonable time, the Chairman may replace it and levy from the owner a sum of five rupees;"

(12) that at the end of sub-section (2) of section 366 (*now* 368) the words "within a reasonable time, not less than seven days, to be specified in such notice" be added;

(13) that at the end of section 371 (*now* 380) be added "within a reasonable time, not less than thirty days, to be specified in such notice;"

(14) that in section 391D (*now* 383), clause (*iii*), after "him" be inserted "within a reasonable time, to be specified in the notice."

[*Dr. Asutosh Mukhopadhyaya; the President.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"These amendments will have to be withdrawn, as the object I have in view is provided for in section 622 (*now* 597)."

SECTION 152.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA drew attention to the amendment, of which he had given notice, that in section 148B (*now* 152), sub-section (*1*), for the words "the period for which they were so made" be substituted "two years from the commencement of this Act."

He said:—"With reference to this amendment, I have placed myself in communication with the Hon'ble Member in charge of the Bill, and, with the leave of the Council, I propose to move in substitution for it the fresh amendment* of which notice has been given."

At the suggestion of the Hon'ble THE PRESIDENT the amendment just referred to was postponed in order to permit of copies being printed and circulated to the Members of the Council for their information.

SECTION 230.

The Hon'ble THE PRESIDENT then said:—"I understand that the amendments which the Hon'ble Dr. Asutosh Mukhopadhyaya proposes to substitute for those he originally moved to section 220T (*now* 230) are also not in possession of Members of the Council, and I, therefore, think that these amendments might also be postponed until to-morrow."

The consideration of the amendments was accordingly postponed.

SECTION 253.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Before Your Honour takes up the motions on the agenda paper, I would take leave to ask permission to give notice of an amendment to section 252 (*now* 253) which has been drafted for me by the Secretary, but which I do not think should be placed before the Council until it has been printed and circulated."

The Hon'ble THE PRESIDENT said:—"I quite agree that these three motions should stand over until to-morrow."

* This amendment was brought forward and agreed to at the meeting held on the 23rd September, 1899.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

SECTION 300.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 288 (*now* 300), at the beginning of clause (*ii*), the words "if no suitable cesspool already exists" be inserted.

He said:—"This section is taken from the Bombay Act, section 232, and the words I propose to put in find a place there. In the Bombay Act we find in section 232 the words 'and the Commissioner may in like manner require any such drain, and, if no suitable cesspool exists, any such cesspool to be made of such materials, size and description, and to be made at such level and with allowance for such fall as may appear to him to be necessary.' These words appear to me to be necessary, because, if a cesspool already exists, it is not necessary that each individual householder should be obliged to have a cesspool in front of his house."

The Hon'ble MR. BAKER said:—"This amendment does not seem to be necessary. In the first place, it seems to me that the whole section is governed by the opening words of it, *viz.*, 'when in cases not provided for in section 287 (*now* 299) any premises are, in the opinion of the Chairman, without sufficient means of effectual drainage, he may," &c. I think that covers all that the Hon'ble Member wishes to add. And I think also that we must take it for granted that the Chairman will exercise his powers with common sense. If there should be a suitable cesspool already in existence, surely he would never require the owner to provide another."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"After this explanation I do not wish to press the amendment."

The amendment was then, by leave of the Council, withdrawn.

SECTION 307.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 292E (*now* 307), sub-section (*3*), line 5, after "funds" be inserted "the owner of the land shall be bound to pay the cost of such construction and."

He said:—"I want to put in these words in order to make it clear that the cost of the construction is to be borne by the owner of the land, and the cost of repair alone by the owner of the hut. I think that is what is intended to be the law."

[*Mr. Baker; Dr. Asutosh Mukhopadhyay; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"This is already provided for in section 622 (*1a*) [*now* section 597, sub-section (*2*)]; that section gives a general power to recover the cost of carrying out works from the person on whom the notice has been served. By sub-section (*2*) of section 292E (*now* 307), the General Committee may serve written notices on the owner of the land requiring him to construct the drain."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Yes, that is so. I accept the explanation and withdraw the amendment."

The amendment was then, by leave of the Council, withdrawn.

SECTION 319.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 295 (*now* 319) the following be added:—

"Provided that the amount recoverable as expenses of such inspection and examination shall not in any case exceed ten rupees."

He said:—"A similar provision will be found in section 265B (*now* 282), proviso."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

SECTION 321.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "not being dwelling-houses" be inserted after the word "premises" in line 5 of section 296A (*now* 321).

He said:—"Sir, ventilating shafts are dangerous to dwelling-houses, and they are being removed throughout the town, I believe. I think, if my hon'ble friend would place himself in communication with the Health Department, he would find that that Department are engaged in removing these ventilating shafts from dwelling-houses. They are positively dangerous in that position. I placed myself in communication with the Assistant Health Officer, and he was of opinion that this suggestion should be made. These shafts are being removed, and it would be as well for us to lay it down as part of the law that they shall not be fixed to dwelling-houses."

[*Mr. Baker; Mr. Oldham; Babu Surendranath Banerjee; the President.*]

The Hon'ble MR. BAKER said:—"I am afraid this amendment is impossible. The section follows the existing law, and, as far as I know, it must usually happen that the buildings to which ventilating shafts will be attached must be dwelling-houses."

The Hon'ble MR. OLDHAM said:—"When we sat in Select Committee we had before us a model dwelling-house which was furnished with these ventilating shafts. I had heard something to the effect that they can be dangerous, but no objection was taken at that time."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"That was a Bombay model, and I don't think, Sir, we ought to pin our faith upon models of dwelling-houses in a city which has for the past two or three years been desolated by the plague. Anyhow, that has been the view put before me, and I think I ought to draw the attention of the Council to it. The Assistant Health Officer assured me that steps are being taken to remove these ventilating shafts. Is the Hon'ble Member in charge of the Bill prepared to challenge this statement?"

The Hon'ble MR. BAKER said:—"I cannot challenge it, as this is the first time I have heard of it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If my hon'ble friend will place himself in communication with the Health Officer, he will find out all about it and that it is so."

The Hon'ble MR. BAKER said:—"My opinion is that this cannot be done all over the town. It may be possible to remove them in some instances, but not in all."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"You recognise the fact that it is not desirable to have these ventilating shafts fixed to houses. I think it is decidedly dangerous to have them."

The Hon'ble THE PRESIDENT said:—"Can the Hon'ble Member tell us, when a ventilating shaft, which is required for sanitary purposes, is removed from a dwelling-house, to what building that shaft has subsequently to be fixed?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"No, I cannot tell you that, Sir."

[*Mr. Buckley; Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble MR. BUCKLEY said:—"I had intended to say a few words before my hon'ble friend replied. I apologise for speaking after he has replied, but I should like to point out that not only is it the case that these ventilating shafts must be fixed to dwelling-houses when there is no other building to which to fix them, but dwelling-houses have their own ventilating shafts in many cases, and it is necessary that they should have them. This section is intended to apply to public ventilating shafts, and it would, no doubt, be desirable to place them somewhere else, if it were possible to do so. But it is not possible to do so in all cases, and in the Bill there are stipulations that these shafts shall be carried well above the houses out of danger as far as possible. I am afraid the Hon'ble Member's suggestion is not practicable."

The motion was then put and lost.

SECTION 324.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 296D (*now* 324) be added:—

"The decision of the Court of Small Causes shall, subject to the provisions of Section 6 of the Presidency Small Cause Courts Act, 1882, or section 25 of the Provincial Small Cause Courts Act, 1887, as the case may be, be final."

He said:—"This amendment is based on precisely the same principle as my amendment to sub-section (*3*) of section 148N (*now* 163). I then explained to the Council the reasons why it is desirable to invest the High Court with power to interfere with the decision of a Small Cause Court Judge, where such decision is erroneous in law, and has by reason of such error caused hardship or injustice. That was accepted by the Council, and I place this proposal on precisely the same ground."

The Hon'ble MR. BAKER said:—"Can the Hon'ble Member say if it is at all likely that any question of law will arise under this section? That is the only doubt which has occurred to me."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Questions of law may arise on the construction of these sections."

The Hon'ble MR. BAKER said:—"I should hardly have thought that any question of law was likely to arise. The Hon'ble Member has convinced me that it is desirable for the High Court to have the power of revision in matters

of law, and the only doubt I felt in this particular section was that no question of law was likely to arise. If any question of law arises, it is better to have these words; and, if none does arise, they will do no harm."

The motion was then put and agreed to.

SECTION 325.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or water-course" be inserted after the word "tank" in line 4 of sub-section (*1*) of section 311A.

He said:—"I had Tolly's Nullah in my mind in proposing this amendment. It is not a tank, nor is it a place for the storage of water, and I think it is as well that steps should be taken to provide against the pollution of Tolly's Nullah. I therefore think it would be advisable to have these words inserted."

The Hon'ble MR. BAKER said:—"These words were in the original Bill, and they were struck out in Select Committee, because we thought that there was no such thing as a water-course in Calcutta. If Tolly's Nullah cannot be described by any other term, then I shall not object to this amendment."

The motion was put and agreed to.

SECTION 327.

The Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion standing in his name that in section 314A (*now* 327), sub-section (*2*), the words "subject to the control of the Corporation" be inserted after "shall."

He said:—"Sir, having regard to the sense of the Council as to the undesirability of interfering with the decision of the General Committee by the Corporation, I withdraw this amendment."

SECTION 329.

The Hon'ble BABU SURENDRNATH BANERJEE moved that sub-section (*3*) of section 315 [*now* sub-section (*2*) of section 329] be omitted.

He said:—"Sir, we have no such provision as this in the present law, that is as to the license being for a renewable period of one year, although we have provision for the cancellation of licenses in cases of [illegible]

[*Babu Surendranath Banerjee; Mr. Baker.*]

to call attention to sub-section (*2*) of section 321 (*now* 335), which says: 'if any licensed plumber contravenes sub-section (*1*), his license will be cancelled whether he be prosecuted or not.' So that, if a plumber does anything he ought not to do, there is ample power provided in the Bill for the cancellation of his license. I have an objection to the renewal of licenses every year. Every time a plumber goes to the Municipal Office to pay a license, he has to fee a number of people, and I am anxious that that process should not continue indefinitely. The provision does not exist in the present law, and, as there is ample power in that law, it does not seem necessary to have a provision like this."

The Hon'ble MR. BAKER said:—"I think it is impossible to have a perpetual license; that would be neither desirable nor practicable. I notice also that in section 611 (*now* 586) it is definitely contemplated that licenses shall be for a fixed period. I think one year is a reasonable time, and I ask that this clause be allowed to stand."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"My hon'ble friend's argument is this. You have got something in section 611 (*now* 586), and as you have got something in that section, this section must remain. My reply is, change what is here and also what is in section 611 (*now* 586). I think that will meet that part of my friend's argument. We have got a provision in this section which is in conflict with section 611 (*now* 586). Change this section and adapt 611 (*now* 586) to what we have changed this section to. I think that process is easy and does not involve any difficulty whatever. My hon'ble friend says that it is impossible that these licenses should run for an indefinite period. I venture to say that this is an *obiter dictum* of his, as I do not see why it is impossible at all. If he holds that opinion, why not fix three years as the period? It is not desirable that these people should go to the Municipal Office and fee people all round. Every time any one has to go to the Magistrate for the renewal of an arms license, he fees everybody, beginning with the peon and going up to the peshkar. Such a state of things does not exist in the Corporation now, and I do not see why we should create it there. Therefore, Sir, I hope my hon'ble friend will accept the compromise which I now propose."

"The Hon'ble MR. BAKER said:—"I have no objection to three years. I do not think these licensed plumbers are in any respect like the people who take out arms licenses."

[*Mr. Oldham; Mr. Handley; Mr. Baker; Mr. Bolton; Babu Surendranath Banerjee.*]

The Hon'ble MR. OLDHAM said:—"I would say that these licenses are more of the character of diplomas, and a diploma may be given for a permanent period. I believe that the objections to yearly renewals are very strong, and that three years may be accepted as a compromise."

The Hon'ble MR. HANDLEY said:—"What remedy has the applicant if the Chairman refuses his application under sub-section (*4*) [*now* (*3*)]?"

The Hon'ble MR. BAKER said:—"He has an appeal to the General Committee."

The Hon'ble MR. BOLTON said:—"I think three years may very well be accepted as a compromise.

The motion was put in the amended form and agreed to.

SECTION 331.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clause (*c*) of section 317 (*now* 331) be omitted.

He said:—Clause (*b*) provides that a licensed plumber shall furnish the Engineer with plans of all drainage works carried out under clause (*b*). If you turn to clause (*a*), you will see that under it the plumber may, before the work is begun, prepare for the approval of the Engineer plans and estimates for the drainage of premises. So that he has to do this twice; first, before the work is undertaken, and, secondly, after the work has been finished. Is this double safeguard necessary? Is it not quite enough that the plumber should prepare the plans on the first occasion, and might we not trust to these plans and estimates being carried out? I suppose the unfortunate persons, whose drains are being connected, will have to pay for the plans and estimates in the first instance, and again in the second instance. I do not think we have got these elaborate provisions in the present law, and it seems to me it ought to be enough if plans and estimates are submitted before the work is undertaken, and then subsequent plans and estimates may be dispensed with. The position of a plumber with regard to the Corporation has some sort of analogy to the position of an Attorney in the High Court. He is regarded as a sort of *quasi*-officer of the Court. The Court has a hold on him, as the Corporation has a hold on the plumber. If a plumber misbehaves himself, his license is liable to be cancelled; and, if he does things not in accordance with the plans and estimates,

he is liable to be punished. Therefore, he has the strongest possible motives for doing all these things in accordance with the plans and estimates. If they are not done in accordance with the plans and estimates, there is the owner whose interest it is that the work should be done properly. And, having regard to this double safeguard, it seems to me unnecessary to have this second series of plans and estimates. I think it is throwing a double burden on the tax-payers, and I am myself a tax-payer; I therefore propose that clause (*b*) should be omitted."

The Hon'ble MR. BAKER said:—"I think my hon'ble friend is under some misapprehension. There is no intention that two plans and estimates should be prepared. What is intended is that, when the work has been carried out, the original plan and estimate shall be deposited with the Engineer."

The Hon'ble MR. BUCKLEY said:—"I think my hon'ble friend Mr. Baker is mistaken. It is very desirable, indeed, that, when the work is completed, the Municipality should be in possession of plans showing how the drains are carried. A man may have prepared a plan showing the way he intended to carry the drains, but difficulties may subsequently have arisen, and he may, in consequence, have found it necessary to carry the drains in a different direction. That being so, it is most necessary that drains, as they are exactly constructed, should be recorded for the information of people who have control over them afterwards. As a matter of fact, it will not be such a difficult matter as the Hon'ble Babu Surendranath Banerjee seems to think. In most cases a man would make his plans in the first instance; he would then, if he had to alter the drains, make a few marks on them showing the alterations, and then have a tracing prepared of the revised map. I do not suppose the whole thing would cost more than one or two rupees."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I think in clause (*a*) the word 'may' should be replaced by the word 'shall.' I may be under a misapprehension, and if I am, my hon'ble friend will enlighten me on the point. Is it optional with the plumber to make a plan in the first instance and obligatory upon him to furnish a plan when the building is finished?"

The Hon'ble MR. BAKER said:—"When a plumber is employed in carrying out any work, he must prepare plans for the Engineer's approval before he can do it, and, if the work is carried out without change, he simply deposits those plans in the Engineer's office. If alterations are made, he marks the alterations

on the plans and deposits them in the Engineer's office. There is nothing further than that."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to clause (*e*) of section 317 (*now* 331):—

"Provided that, before any such works are carried out, the plumber shall submit a plan of the work and an estimate of the cost thereof to the owner or occupier of the premises, as the case may be."

He said:—"I think, Sir, that it is only fair that before the works are carried out the plumber should make out plans and estimates and submit them to the Engineer. I think also that it is only right and proper that the person who has to pay shall be furnished with plans and estimates. I think my hon'ble friend ought not to object to a provision of this kind. I may tell you, Sir, that as a matter of fact at the present moment, when a plumber finds that the owner or occupier of the premises is rather a big person, he always brings the plans and shows them to him for his approval. The plumber doubtless thinks that if he does not do so, he may create difficulties later on. I think it ought to be made obligatory that these plans should be submitted to the rate-payers before they are carried out. The person who pays the money has the right to know what the work is for which he pays. I think that is a perfectly fair and reasonable proposal."

The Hon'ble MR. BAKER said:—"I would point out to the Hon'ble Member that this clause comes into operation only in the event of the owner having made default in carrying out the work himself. In the first instance, it is quite open to him to carry out the work through his own plumber. If he fails or neglects to do so, then the Chairman comes in and appoints his plumber, and I do not see that the owner has anything further to say in the matter. I am afraid that, if this amendment is allowed, an obstructive owner will seize upon the opportunity afforded to him and delay the matter further. He will raise frivolous objections if he wants to delay the progress of the work. That is the sole ground of objection. I have no very strong objection to this proposal, but I do think that on the whole it is dangerous. I cannot see that the defaulting owner has any strong claim to have the plan submitted to him."

The Hon'ble MR. APCAR said:—"I do not think that it will be in the power of any owner to delay. All this provides for is that he will have some

information as to what is going to be done. There may be many reasons why the owner has not proceeded to put the drains in order. It may be that he is in default accidentally, and, if any work has to be done for which he is liable, I think information ought to be given to him as to what that work is to be. I am entirely in support of the amendment, and if my hon'ble friend, the Member in charge of the Bill, does not hold a strong opinion in regard to it, I hope that it will be allowed and passed into law."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"Frivolous objections the owner cannot raise. It is not as if his sanction were required. It is only for information. He has to pay for the work, and all that I say is that he should see a statement of the work for which he has to pay. I do not see that he has it in his power to raise frivolous objections or to delay the execution of the work."

The Hon'ble MR. SPINK said:—"I understand there would be no difficulty in his finding out from the Municipal Officer any information he requires."

The Hon'ble MR. MACKENZIE said:—"It occurs to me, Sir, that the plumber would not undertake the work without first submitting the plans. What owner or occupier would have the work done without seeing the plans?"

The Hon'ble MR. BAKER said:—"What would happen is this. In the first instance, the Chairman serves the notice on the owner to carry out certain work, and, if the owner fails or neglects to do so, then the Chairman orders a plumber to do it. I think the section should be allowed to stand as it is."

The Hon'ble MR. BOLTON said:—"If the provision which the Hon'ble Babu Surendranath Banerjee wishes to introduce is accepted, it will encourage owners to delay the carrying out of drainage improvements on the receipt of notice from the Chairman, because, by doing so, they will afterwards have an opportunity of checking the estimates for the work and of raising objections. The absence of the provisions will not prejudice them. The Chairman will not disregard any reasonable representation from them against unnecessary expenditure."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The owner ought to know what he is paying for, and he would not know that unless this statement is laid before him. My hon'ble friends over there seem to be of opinion that the rate-payers are a body who are anxious to evade all the orders they are required to carry out. There are many causes besides wilful negligence which

may have caused the work to be overlooked. For instance, the owner may be living away from Calcutta. Take my own case. I have a house here, but I live away from the city. I might not receive the notice, and I might not know that the work was required to be done. I do not think we ought always to assume that default is made through a wish to evade the law or from sheer negligence. If my hon'ble friends opposite would not regard the rate-payers in the way they do, but would take a broader view, they would probably look at the matter in a more charitable light. It is simply a principle of justice which I think ought to be accepted."

The Hon'ble MR. BOLTON said:—"If any representation is made to the Chairman that the failure to execute the work was due to the owner's absence from town, he will, no doubt, grant time to the owner to carry out the work himself."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The Chairman knows nothing of all this. He delegates his powers to somebody else, and he delegates his powers to somebody else, and so on. If the Chairman himself attended to all these things, I would for my part be quite willing to trust to him implicitly, and we could do without any municipal law at all. But, as I have said, his powers are delegated to subordinates, he relies upon a great many agents, and those agents neither my hon'ble friends nor myself would trust. The Chairman is, however, obliged to employ them in the discharge of his duties. I really cannot understand what objection there can be to a simple amendment of this kind. It could not possibly do harm; all that is required under it is that the plans should be submitted to the man before he is called upon to pay for the work."

The motion being put, the Council divided as follows:—

Ayes 8.	*Noes 10.*
The Hon'ble Rai Durga Gati Banerjea, Bahadur.	The Hon'ble Mr. Buckley.
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Mackenzie.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Spink.
The Hon'ble Mr. Apcar.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Oldham.
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

SECTION 338.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 328 (*now* 338), sub-section (*2*), line 4, for "may" be substituted "shall."

He said:—"This is a very small matter, which does not admit of much discussion. It seems to me that the intention of the section is to make a reference to the General Committee compulsory; if so, 'shall' is the proper word."

The Hon'ble MR. BAKER said:—"I have no objection, Sir. I think 'may' means 'shall' in this case."

The motion was put and agreed to.

SECTION 339.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 329 (*now* 339), sub-section (*3*), for the words "cause any hedge or tree referred to in sub-section (*2*) to be trimmed, pruned or cut" be substituted "take action under sub-section (*2*)."

He said:—"This is a purely verbal amendment intended to make the section shorter."

The Hon'ble MR. BAKER said:—"I think we had better follow the wording of the section as it stands, which has been settled by the Secretary of the Council. I am not sure that the effect would be exactly the same."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"If my hon'ble friend has any serious objection, I will not press the amendment."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 329 (*now* 339), sub-section (*3*), line 8, the words "or occupier" be omitted.

He said:—"This is a matter of substance. Under the law, the trees are the property of the owner, and when the Chairman takes action under sub-section (*3*) of section 329 (*now* 339), I think in common fairness the owner ought to bear the expense, and not the occupier."

The Hon'ble MR. BAKER said:—"This follows the existing law. The intention is that the Chairman may take action in case of emergency, and shall

[*Mr. Baker; Mr. Apcar; Mr. Handley; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

have a double remedy against either the owner or the occupier. This matter was considered in Select Committee, and it was decided to leave in both words."

The Hon'ble MR. APCAR said:—"It may be, Sir, that the fault is that of the occupier; he may have been neglectful."

The Hon'ble MR. HANDLEY said:—"I would also point out that the Hon'ble Member, the mover, has not noticed that it is 'a hedge or a tree'; although trees are reserved to the landlord, I do not know that a hedge is"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think a free discretion ought to be given to the municipal executive to deal with the owner or the occupier, as the justice of the case may require."

The motion was then put and lost.

SECTION 340.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 329B, sub-section (*4*) [*now* section 340, sub-section (*6*)], for the words "on payment of compensation" be substituted "and the owner or occupier shall be entitled to reasonable compensation out of the municipal funds on account of such removal."

He said:—"If I may say so without impropriety, the language of the sub-section seems to me to be somewhat clumsy. The sub-section says:—

'At any time after permission has been given under sub-section (*2*) [now (*4*)] to put up a verandah, balcony, sunshade, weather-frame or the like, to project from a building, the General Committee may, by written notice, require the owner or occupier of the building to remove such projection on *payment* of compensation.'

"Surely the word 'payment' is not appropriate. 'On receipt of compensation' might be tolerated. The person who removes the structure has not to pay the compensation. It has to be paid by the Corporation."

The Hon'ble MR. BAKER said:—"I see no objection to this, Sir, now that the first two lines of the amendment have been struck out."

The motion was put and agreed to.

[*Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

SECTION 343.

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR moved that the word "Chairman" be substituted for "General Committee" in section 329E (*now* 343).

He said:—"To my mind, Sir, it appears that, in matters of such urgency as those dealt with in this section, the Chairman should be vested with the power to deal with matters mentioned in the section."

The Hon'ble MR. BAKER said:—"I agree to this amendment. There is no doubt that a matter like this would be a matter of urgency, and there is no necessity to delay action for reference to the General Committee. I notice also that in Bombay this matter rests with the Municipal Commissioner."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have no objection to offer, and the General Committee is already so overburdened with work that perhaps it would be as well to substitute the 'Chairman' here. At the same time I do not like the principle. I should prefer that the work should be done as far as possible under the supervision of the General Committee, if not by the General Committee itself. But, as I have said, I have no serious objection to the proposal."

The motion was then put and agreed to.

SECTION 344.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 329F (*now* 344), sub-section (*1*), the word "not" be transposed from line 3 to line 4 and placed between the words "as" and "to."

He said:—"This is a small matter. I think the transposition of the word 'not' would make the section more emphatic. I want to have the two 'nots' as near each other as possible."

The Hon'ble MR. BAKER said:—"If that were accepted, Sir, it would be to make a further change. If the word 'not' is transposed, it will be necessary to change the word 'or' between 'constructed' and 'maintained' into 'and.' I do not think the alteration is necessary."

The motion was then, by leave of the Council, withdrawn

[*Babu Surendranath Banerjee; Mr. Baker.*]

SECTION 356.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the approval of the Corporation" be inserted after the words "General Committee" in line 1 of sub-section (*1*) of section 347 (*now* 356), and also after the words "General Committee" in lines 1 and 2 of sub-section (*3*) of section 347 (*now* 356).

He said:—"I would ask the Council to turn for a moment to sub-section (*1*) of section 347 (*now* 356). That sub-section says:—

"* * * schemes and plans of proposed public streets."

"That seems to be a very large work affecting the public in which the Corporation ought to be permitted to have a voice. It is because of the character of the work that I should like to move the amendment which stands against my name. Public streets mean very large works, involving a large expenditure, and they are matters of great public convenience or inconvenience, as the case may be. I think, Sir, that it is as well in a matter like this, where the interests of the public are so intimately concerned and where a large outlay has to be incurred, that the Corporation should have a voice. Of course, the executive part of the work may be done by the General Committee. I do not wish to disturb that, but I think the words 'with the approval of the Corporation' should be added. So far as the executive part of the work is concerned, that may be left, as under the section, to the General Committee; but I feel, after having regard to the large expenditure which will be incurred in works of this kind and to the considerations of public convenience which will be involved, it would be as well that the Corporation should have something to say. That is with regard to the first part of my amendment. The second part of the amendment is to insert the words 'with the approval of the Corporation' in lines 1 and 2 of sub-section (*3*) of the section. I can say at once that I do not put it on the same footing with the first part of the amendment. Public streets in bustees are not so important as public streets in the town. Therefore, if the Council would object to the second part of the amendment, I do not wish to press it. But I do think, that with regard to public streets, where a large expenditure is to be incurred, the approval of the Corporation should be obtained."

The Hon'ble MR. BAKER said:—"I think the Hon'ble Member is under some misapprehension. This section only relates to the preparation of projects. The effect of the amendment would be that it would not be open to the General Committee even to prepare a project for a new street without having obtained

[*Mr. Baker; Babu Surendranath Banerjee; the President; Dr. Asutosh ukhopadhyaya.*]

the previous approval of the Corporation. I am sure the Hon'ble Member does not contemplate that."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I think the Hon'ble Member is right. I had overlooked that. I am much obliged to the Hon'ble Member. I beg to withdraw both proposals."

The motion was then, by leave of the Council, withdrawn.

SECTION 357.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following proviso be added to sub-section (*1*) of section 347A (*now* 357):—

"Provided that the Chairman shall acquire such land through a Deputy Collector, who shall not be subordinate to the authority of the Chairman."

He said:—"I understand that it is the intention of the Hon'ble Member in charge of the Bill to offer a strong opposition to this section; therefore I suggest that it be taken up in connection with an amendment which stands against my name respecting the land acquisition section. I think that would be the most convenient course, if Your Honour has no objection and my hon'ble friend has none."

The Hon'ble MR. BAKER said:—"It will be more convenient to take it up later, Sir, as the Hon'ble Member proposes."

The Hon'ble the PRESIDENT said:—"I assent to this course."

The consideration of the amendment was accordingly postponed.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 347A (*now* 357), sub-section (*2*), proviso, for the words "the capitalised value of" be substituted "twenty-five times."

He said:—"My intention in moving this amendment is to prevent needless litigation as much as possible. If the section is allowed to retain its present form, who is to decide what is the capitalised value of the annual sum? I can well anticipate that there will be litigation, and if section 640 (*now* 617) does not apply there will be protracted litigation in the Civil Courts."

The Hon'ble MR. BAKER said:—"Section 640 (*now* 617) says 'any municipal authority or person.'"

[*Dr. Asutosh Mukhopadhyaya; Mr. Oldham; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"Even if section 640 (*now* 617) does apply, there will be litigation, though, perhaps, not very expensive. The owner will probably say, 'I am not liable to pay more than twenty times,' and the Corporation will say, 'we are entitled to get at least thirty times.' The result, of course, will be litigation. The words I suggest will, I think, make the section workable and practical."

The Hon'ble MR. OLDHAM said:—"As the amendment stood, the proposal was that it should be twenty times the annual value. That was the only objection we found to it. I think the 'twenty-five times' should be accepted."

The Hon'ble MR. BAKER:—"There is no objection. I agree with the Hon'ble Mr. Oldham."

The motion was then put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 347A (*now* 357), sub-section (*5*), line 3, after the word "of" the words "by public auction" be inserted.

He said:—"With reference to this amendment, I have been in communication with the Hon'ble Member in charge of the Bill, and also with the Chairman of the Corporation, and they are both of opinion that, unless some proviso is added to meet exceptional cases, the whole thing will be impracticable. I, therefore, propose, with your permission to put in these words:—

'by public auction, unless the General Committee, for special reasons, to be recorded in writing, otherwise directs.'

"My suggestion is that the disposal of such property should ordinarily be by public auction, and that only in exceptional cases the sale should be by private arrangement. I think this is in accordance with the present practice, and there can be no possible objection to it. Sometimes a new street is opened out, and it is decided that the lands on both sides are not to be disposed of for some years. But some influential person, perhaps, a friend of some of the Commissioners, lives in the locality, and he manages to secure the land he wants on very favourable terms. I have no special case in view, but I have been informed that such things have occurred. I think that the general rule ought to be the disposal of the lands by public auction, and that a provision to that effect should be embodied in the law."

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Bolton.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The present practice, as my hon'ble friend has just observed, is to sell by auction; but there may be cases where it is not desirable to sell by auction, and in those cases the sale is effected privately. I have no objection to offer to the amendment, but there was one observation made by my hon'ble friend to which I feel bound to take exception. He referred to cases where he said the personal influence of Commissioners had been improperly exercised in connection with these sales. He appeared to rely upon hearsay evidence, and, as I have personal knowledge which will set at rest any evidence of that character, I think I am entitled to make a statement. Some time ago a Commission of Enquiry was appointed by the Corporation to enquire into the conduct of a certain Commissioner. On that Commission were the Chairman, Mr. Nalin Behari Sircar and myself among others. Certain petitions had been presented to the Corporation with reference to the particular Commissioner in question, and it was thought desirable that a Committee should be appointed for the purpose of making an exhaustive enquiry into the whole matter. The Committee have just finished their labours, and before we resigned we were in a position to send in our report. That report was acquiesced in by Mr. Bright, and the sum total of it was that the Commissioner stands absolutely absolved in our deliberate and unanimous judgment of all the allegations brought against him. As my friend has referred to the exercise of personal influence, I think it is well that I should make an authoritative statement regarding this matter which was publicly enquired into by a competent Committee of Enquiry with the result that the Commissioner has been absolutely absolved of all the charges brought against him."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I did not intend to insinuate anything against any particular Commissioner, and if what I did say is capable of such construction, I will at once withdraw it."

The Hon'ble MR. BAKER said:—"I think, Sir, there is no objection to accepting this amendment. The present practice is to sell by public auction, and, as the Hon'ble Member says, that practice should be adhered to, except when it is desirable to do otherwise."

The Hon'ble MR. BOLTON said:—"It seems to me, Sir, that a provision for a sale by public auction, would give almost as much opportunity for the

[*Mr. Bolton; Mr. Apcar; Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

exercise of personal influence as the section now stands in the Bill. I do not say that there has been any improper action in the past; but, if there is risk of such action, it will exist in the case of sales by auction also. For instance, it would be possible for interested parties to keep buyers away from the auctions, in order that the lands or buildings may be knocked down at low prices. I think it would be enough to add to 'shall be disposed of by the General Committee' the words 'after public advertisement'."

The Hon'ble MR. APCAR said:—"I support the Hon'ble Mr. Bolton's proposal. I think it would be a good thing to let these matters be widely known. As for a public auction, it is for the General Committee to conduct the sales as they choose, and I quite agree with the Hon'ble the Chief Secretary in what he has said regarding the abuses which might attend public auctions."

The Hon'ble MR. BAKER said:—"I have no objection to accepting the words proposed by the Hon'ble Mr. Bolton if the Hon'ble Dr. Asutosh Mukhopadhyaya is willing also to accept them."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Yes, I am quite willing to accept those words, and will substitute them for the terms of my amendment."

The motion was then put in the amended form and agreed to.

SECTION 364.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "the General Committee may, with the consent of the owner, sell the site by public auction," in lines 5 and 6 of sub-section (*1*) of section 363 (*now* 364), the following be substituted:—

"the Corporation shall, upon the requisition of the owner, acquire the said site on payment of a reasonable price,"

and that sub-sections (*2*) and (*3*) be omitted.

He said:—"Sir, the amendment is substantially this. A person being the proprietor of a certain plot of land is unable by the operation of your building regulations to use it as a building site. He wants to use it as a building site, but your rules come in the way, and he is not able to do so. He is not able to use it for building purposes, because considerations of public health and convenience have rendered it necessary on the part of the Corporation to make rules regarding certain sites, and it is in consequence of these rules that

[*Babu Surendranath Banerjee.*]

he is unable to erect a building on the land. It seems to me, Sir, to be fair and equitale that, being deprived of the right to use his land as a building site, he should ask the Corporation to purchase it from him at a reasonable price. Sir, he suffers on public grounds; he suffers by reason of the rules which the Corporation for purposes of public health have found it necessary to enact; and it seems to me that it is only right and proper that he should get a fair measure of compensation for not being able to utilise his land in the way he intended, and that the land should be taken over by the Corporation. Of course, I do not overlook the difficulties surrounding the question. My hon'ble friend will ask me what is the Corporation to do with the land? It would be so much public expenditure for nothing. Sir, that is a consideration which must not be overlooked. But, after thinking over the matter most carefully, it struck me that there may be a *via media* which I should like my hon'ble friend to accept if he could see his way to do so. That *via media* is this: that at any rate for the next year or so the amendment should be given effect to. That is to say, for the next year or so, before the ratepayers have become completely familiarised with the rules we are now about to enact, it would be desirable to have a provision of the kind I suggest. In other words, for the next two or three years, if persons in possession of plots of land are not allowed to build upon those plots in consequence of the operation of the building rules, such persons would be entitled to go up to the Corporation and ask that their sites should be taken over at a reasonable figure. We have, Sir, a section somewhat analagous to the suggestion I make. If any repairs have been done to a privy within the last three years, and if the Corporation calls upon the person to make further repairs, then we have provided that the expenditure shall be met out of Municipal funds. Well, the suggestion I have made follows the lines of that section. Here are your building rules. These rules, which are enacted for the public welfare, preclude a particular party from making use of a site for building purposes which he wanted to use for those purposes. It may be, when this man purchased his site, these rules had not come into operation, but that, while he was waiting for an opportunity to build, they were brought into force. He is, therefore, placed in a difficult position. It seems to me that it is only right and fair that at any rate for the next year or so persons placed in that situation should be entitled to ask the Corporation to take up the site on payment of a reasonable compensation."

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER said:—"I think, Sir, that this proposal, as it stands, is a most unreasonable one. The Hon'ble Member has correctly pointed out that the effect of it would be to saddle the Corporation with a large number of small unserviceable pieces of land dotted about all over the city, which cannot be put to any public use and which would almost certainly be encroached upon by neighbouring owners. The Hon'ble Member then suggests that for the next two years or so the Corporation should be required to buy these pieces of land, but not after that. I do not see, Sir, that the case is any different during the first two years that this Bill would be in force from what it would be afterwards. The fact remains that the Corporation would be inundated with applications from people to buy these pieces of land, and it might in consequence be involved in very considerable financial difficulties. The analogy between this case and that of the privies to which he referred, and in which we undertook to make a contribution from Municipal funds under certain conditions, is by no means a good one. The difference is this, that in the case of the privies we call upon the owner to incur certain expenditure in order to conform to the new rules, and it is only in such a case that we undertake to bear a portion of that expenditure. In this case the owner of the land incurs no expenditure; he is not required to put his hand into his pocket in any way. The idea which underlies the amendment is this, that, if a person has land, he is at liberty to utilise that land in any way he thinks fit. But that idea is totally unsound. No person has any right to use his property in such a manner as to endanger the health of his neighbours, and if a man has purchased a piece of land, which is so small or in such a position that to build upon it would adversely affect the public health, that man deserves, in my opinion, no compensation."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I did not really expect that a proposal so unreasonable as this would come from my hon'ble friend Babu Surendranath Banerjee. The Hon'ble Member in charge of the Bill has very correctly pointed out what the effect of this amendment would be; and even the most superficial examination of the question will show that the proposition is based upon fallacious grounds. In the first place, there is no authority for the assumption that every member of a civilised community is entitled to use his property just as he pleases; his rights are restricted by the rights of his neighbours. In the second place, it is equally inaccurate to say

[*Dr. Asutosh Mukhopadhyaya; Raja Ranajit Sinha Bahadur, of Nashipur; Babu Surendranath Banerjee.*]

that when the rights of an owner are so restricted he suffers by reason of the rules which the Corporation for purposes of public health have found it necessary to enact; it is not the Corporation, but this Legislature, which enacts this rule of law; and my hon'ble friend, in order to be logically consistent, ought to propose that we, and not the Corporation, should compensate the unfortunate owner. It will also be noticed that under the section, it will be optional for the General Committee to sell the site by public auction. If the amendment of my hon'ble friend were accepted, it would be obligatory upon the Corporation to acquire the site on the payment of a reasonable price. It seems to me absurd that all the rate-payers in the city should provide the price of a piece of land which belongs to a particular rate-payer, and which he is not allowed to build upon. To my mind, if owners of such pieces of land are allowed to do as is proposed, if I were in possession of a diseased horse which was good enough for work, but which I was not allowed to drive, I might as well go to the Corporation and ask them to take it over from me at a reasonable price!"

The Hon'ble RAJA RANAJIT SINHA BAHADUR OF NASHIPUR said:—"I am sorry I cannot support the amendment, which is unreasonable. I cannot understand what the Corporation would do with these pieces of land after acquiring them. I do not think the money of the rate-payers should be utilised for buying up plots of land which are absolutely useless to the public."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I do not think the analogy of the diseased horse is quite a correct one. The diseased horse is not diseased from the operation of any law which may have been enacted for the benefit of the community or the Government. The horse is rendered useless by the operation of natural causes. The land is rendered useless by the operation of a new law, of which the person who owns the land is absolutely in ignorance. When he purchased the land no such rules were in existence, and I am surprised that so sound and so able a lawyer as my hon'ble friend should have brought forward an argument so absolutely unreasonable as this. But we live in a land of surprises, and sometimes we find even lawyers tripping in this fashion. I just want to put a concrete case to my hon'ble friend the Member in charge, and ask him what he thinks about the justice of such a case. Suppose a person had purchased a piece of land now, in ignorance of the fact that any new building rules are likely soon to come into operation; he is absolutely in ignorance of the

new law, and he purchases a piece of land in the hope of erecting by and by a building upon it. Being a poor man, he is not able to find the means to construct the building until, say, next May. Then he begins to build, but the new rules have in the meantime come into force. The Chairman comes down upon him and says: 'You cannot build there; the rules stand in the way.' Now I should like to know what the Hon'ble Member in charge of the Bill thinks of the justice of a case of that description. Here is this poor man; he purchases a site in the hope of being able, when he has raised sufficient money, to erect a building upon it. He knows the present rules, and he knows that in them there are no difficulties in the way of his building; but in the meantime the new law comes into operation, and it is no longer possible for him to build. Is not that a hard case? If it is a hard case,—and it must be admitted to be so,—is it not right and proper that we should devise a remedy? If you limit the period, say, to one or two years, the justice of the case will be amply met. I cannot admit that it is an unreasonable proposal. Let us not do injury to private individuals in the name of public right. We ought to proceed cautiously, and we ought to see to it, that in the name of public health and of public right we do nothing to injure the rights of private individuals. I am convinced that there is a tampering with private rights under this section as it stands, and, that being so, I feel it is necessary to move this amendment. If the amendment is unacceptable, I recommend a compromise, which I regret to see my hon'ble friend also seems to think is objectionable upon the lines I have suggested."

The Hon'ble MR. BAKER said:—"May I also give one concrete instance on the other side? Up to the year 1882 there was an import-duty imposed on piece-goods and yarn imported into Calcutta. When the duties were taken off in 1882 there were large stocks of piece-goods and yarn in Calcutta on which the duty had been paid. Does the Hon'ble Member think it would have been reasonable in that case to require the Government to take over those stocks of yarn and piece-goods, at cost price?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I do not consider that to be a good analogy. It is a totally different case. That is a matter of trade and speculation. The tradesmen are bound to take the consequences of their action, be they good or bad. That is quite a different matter. A man wants

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Apcar.*]

to build a house, probably to live in it. He is not speculating, nor is it done in the way of trade, and I am very much surprised that the difference between the two cases should not have struck my hon'ble friend as unquestionably the two matters stand upon a wholly different footing."

The motion was then put and lost.

SECTION 367.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 365 (*now* 367), after sub-section (*4*), the following be inserted:—

"(*4a*) The decision of the Local Government upon such objections shall be final."

He said:—"I take it that this is the intention of the framers of the law. I do not think it desirable that people should be permitted to litigate for purposes of settling these matters. The section relates to the power of regulating the erection of certain classes of buildings in particular streets or localities. It is provided that, if the General Committee have given public notice of their intention to do certain things, objections may be preferred which will be considered, and the whole question will be sent to the Local Government for final orders; sub-section (*4*) then provides that 'the Local Government, after considering the objections, may confirm the declaration, and, before doing so, may modify it, but not so as to extend its effect.' My object is to give finality to the decision of the Local Government, and thus prevent either appeals to the Government of India or expensive litigation in the Civil Courts."

The Hon'ble MR. BAKER said:—"I do not see that the addition of these words will make the decision of the Local Government any more final than it was before. There is no higher authority than the Local Government; therefore, in my opinion, the words are quite unnecessary."

The motion was then put and lost.

SECTION 370A.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 370A be omitted.

The Hon'ble MR. APCAR also moved that section 370A be omitted.

[*Babu Surendranath Banerjee.*]

The Hon'ble Babu SURENDRANATH BANERJEE said:—"This is rather an important matter, and I will just read out the chief points in the section. The section says:—

'370A. (*1*) The Local Government may make rules—

(*a*) to confer and impose mutual rights and obligations upon owners of adjacent masonry buildings or lands as regards the erection, re-erection, use, maintenance, alteration and repair of party walls,

(*b*) to regulate the exercise and enforcement of such rights and obligations, respectively,

(*c*) for apportioning between such owners any expenses incurred in the erection, re-erection, maintenance, alteration or repair of such walls, and for requiring security to be given by one owner to another for the payment of his share of such expenses,

(*d*) for determining the amount of compensation (if any) to be paid by any such owner to any other such owner for any damage sustained by the latter in consequence of the erection, re-erection, alteration or repair of such walls, and

(*e*) to facilitate reference to arbitration for the settlement of disputes arising between any such owners in the exercise or enforcement of any rights or obligations conferred or imposed by such rules, and to regulate the appointment, powers and procedure of arbitrators and the payment of the costs of such references.

'(*2*) Rules made under sub-section (*1*) may authorise an owner of a building or land to place the footings of a party wall below the surface of adjoining land belonging to another owner.'

"In the original Bill we had no such section as this all. It was introduced and laid before the Select Committee, and we had, I may say, a very animated discussion about this question of party walls. Both my hon'ble friend Babu Norendra Nath Sen and myself were strongly opposed to the introduction of this section or any section of a similar character. The chief ground upon which the section was supported was that, because such rules and regulations existed in English towns, we should have them here. I do not consider that to be a good argument at all. Circumstances here are totally different from the circumstances which obtain in England. Space is not so valuable here as in London, and here the people are anxious to have their own walls, and not to build their walls on the land of other people. We do not want these rules and regulations; and why should we have them? My hon'ble friend suggested

[*Babu Surendranath Banerjee; Mr. Apcar.*]

that, though a section like this may not be necessary now, it would be very useful hereafter. But to that my reply is 'sufficient unto the day is the evil thereof.' As administrators I do not see the necessity for us to take such large views and to consider such possibilities as these. We ought to be content to deal with the difficulties and dangers which arise from day to day. I think we ought to content ourselves with those difficulties, and not to legislate for possibilities which may arise in the distant future. My contention is this, that difficulties of the kind referred to in this section in regard to party walls are not in the least likely to arise in this country. I am, on the other hand, afraid of a suggestion like this, because there are litigious people about, and they may take advantage of such a section. I do not think the section is necessary, nor do I think it is wise to foster litigation. I think, on the contrary, we should try to discourage litigation as much as possible, and I trust the Council will not consent to empower the Local Government to make rules in regard to a matter which is likely to be prolific of litigation in the future."

The Hon'ble Mr. Apcar said:—"If I may be pardoned for saying so, those who are responsible for this Bill do not, it is evident, hold landed property in Calcutta, and have no desire to do so. I may say that I think, if they did, they would be a little alarmed at the prospect that the rights of owners should be interfered with on the lines suggested in this section. The rules are made in order to meet the difficulties that may arise hereafter. But under them the existing rights of parties may be interfered with, and in view of this I have myself taken alarm. Inasmuch as there is no necessity for these rules, I understand at the present time, I hope that their enactment will be postponed until there is some prospect of these difficulties arising which are in the minds of the authors of this section. Conditions in Calcutta certainly are widely different from those existing in London, and I think we might wait for a little while in order to be able to see what provisions are required here if the Government are not prepared to formulate them now. If they are wanted then they might be brought forward in proper form, not in the form of delegation of authority to make rules, but as a portion of some enactment. There would then be an opportunity given for those who are interested to represent their views. There ought, I think, to be some deliberation and consideration upon so important a subject before any hard-and-fast rules are introduced."

[*Mr. Baker; Mr. Handley.*]

The Hon'ble MR. BAKER said:—"The Hon'ble Mr. Buckley has been good enough to undertake to reply on this matter for the most part, but there is just one word I should like to say. To begin with, the Hon'ble Mover of the amendment, the Hon'ble Babu Surendranath Banerjee, and also the Hon'ble Mr. Apcar to a less extent, said that the reason why this section was inserted in the Bill was that we had party walls in England and rules similar to these were in force there; therefore, we ought to have them here. Now, Sir, I think the Hon'ble Member's recollection has somewhat played him false; that was not the reason at all. The reason why it was thought necessary to insert provisions of this kind in the Bill was this. Under the operation of the Bill, continuous building will become much more frequent in Calcutta than it has been in the past, and when you have continuous building you must sooner or later have party walls. Therefore, although party walls have not been common in Calcutta in the past, we fear that it is inevitable that their number will be increased in the future. Now, party walls in England have been a very fruitful source of litigation everywhere, and we thought it would be prudent to make such a provision as we have here in advance, to prevent litigation in Calcutta. The Hon'ble Member said 'sufficient unto the day is the evil thereof.' Sir, that is exactly what we think too. We are not legislating; we are merely taking the power to legislate when the occasion arises. The provisions of the building chapter in this Bill would be incomplete unless we made a provision for a state of things which is inevitable."

The Hon'ble MR. HANDLEY said:—I should like to make a remark regarding this section. The Local Government professes to be able to make rules to confer and impose rights upon parties. I must say it has given rise to some doubt in my mind how Government can confer rights which do not already exist by law."

The Hon'ble MR. BAKER said:—"Confer rights and impose obligations."

The Hon'ble MR. HANDLEY said:—"I only wish to draw attention to that. I do not quite see how Government can confer rights unless they make a statutory provision. No doubt this rule of party-walls was derived from the Roman law, but how far it has been applied to Calcutta I do not know. Probably under some ancient statute of George II, the English common law was applied to the city of Calcutta, but how far that would introduce the common law of England

[*Mr. Handley ; Dr. Asutosh Mukhopadhyaya ; Mr. Buckley.*]

relating to party-walls in Calcutta I am not prepared at this moment to say. I only wish to draw attention to the possible legal difficulty that might arise, or how far the Local Government can make rules to confer rights which do not already exist."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I agree with the Hon'ble Mr. Handley. The difficulty to which he alludes is a serious one, and we cannot be too cautious about the matter."

The Hon'ble MR. BUCKLEY said:—"This section of the Bill was introduced with the intention of giving assistance and help to owners of property in Calcutta. Under the existing law any one can build a house a small distance away from his neighbour's, but under the rules in Schedule *XIV-a* (*now XVII*) of this Bill he is not allowed to do so. He can do one of two things: he must either build his house at a certain minimum distance—I think it is six feet—away from the neighbouring house, or he must build it actually in contact with the next one. If he builds in actual contact with the next one, to a certain extent it puts him at a disadvantage, and also from a purely constructional point of view rather of difficulty in the building of the house. First of all, it is obviously a great waste of space to build a house close up to another one so that there are two walls in actual contact. The Building Regulations of America actually go so far as to say that it is a constructional advantage to both houses if there is one wall rather than two, and the action of this Bill will certainly be to compel people in future to stick their houses against one another. If they do that, there is a practical difficulty in the matter of laying a foundation. A man who has to build a house right up against his neighbours' house is more or less compelled to lay his foundation under the walls of his neighbour's house, and there are various difficulties in doing that. In the English law there is a very elaborate series of rules, extending over twenty sections of the London Building Act, which prescribe all sorts of regulations entirely framed with the idea of assisting the owners. It seems to me that it is very desirable that the Local Government should have power of making rules which will be of assistance to the people. No doubt here in Calcutta the building hitherto has been very different to what it is in London. It certainly will not be so in future; indeed it cannot be so if the Bill is carried out."

[*Babu Surendranath Banerjee; Mr. Oldham; Babu Boikanta Nath Sen.*]

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"That would be an interference with the rights of owners. There is no intention whatever of doing that. The only intention is to assist and help the owner, so that he may get the full benefit of his property. If you were to take all the streets in Calcutta which are now built with houses away from one another and houses close to one another and were to assess the value of the double walls either existing now or which will exist in future, you would find the value of property wasted in those walls is enormous, and it is evident to everybody that there should be rules for helping them to utilise their property as far as possible."

The Hon'ble MR. OLDHAM said:—"I was one of the advocates for the introduction of these measures in Select Committee, and when my hon'ble friends were speaking against them I do not think they realized how greatly the provisions of this Bill will contract the amount of space which may be occupied by the walls of houses and solid masonry in Calcutta. That contraction will be great, because we have provided in the case of continuous building that one-third of the space occupied by the premises must be open to the air. The Hon'ble Mr. Apcar, looking towards us, has said that we had not the experience which he possessed of being house-owners in Calcutta; but some of us are in the position of managers of house-property in Calcutta, and, speaking of some of the premises under my own control, if I may be permitted to quote Virgil in this connection, I would say *jam proximus ardet Ucalegon.* For there are some premises on which we are pressing Government to spend from three to six lakhs of rupees in additions, and, unless some provisions like these can be resorted to, I do not know how the necessary space can be obtained."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I think I ought to offer a few remarks on this amendment. Our Courts are Courts of law, equity and good conscience. The existence of these party walls will, no doubt, give rise to nice questions of equity, and Your Honour knows, and everybody else in this Council knows, how difficult it is to lay down stereotyped hard-and-fast rules for equitable principles when they have to be applied in concrete cases. It would be difficult, as a good many contingent circumstances will have to be contemplated by Your Honour. Rules will have to be framed, and it would be fettering the hands of the Courts with regard to the

[*Babu Boikanta Nath Sen; Babu Jatra Mohan Sen; Babu Surendranath Banerjee.*]

discharge of their duties. The questions for decision would be found nice and delicate, and at times, when rules are omitted, the Courts would have to exercise their discretion in applying equitable principles. It is much better, therefore, to leave any enactment in the shape of rules for the decision of questions which will arise between the parties. Let the Courts have their full freedom and full discretion in deciding upon questions which would involve some equitable principles.

"Then it has to be assumed that new rights will not be created. I believe it to be the very essence of the thing that these rights must imply obligations; they cannot be created by these rules; they exist. Interpretations will have to be put, constructions will have to be put, and the Courts will have to decide upon the questions which may arise. I venture to think, therefore, that this wording 'to confer and impose mutual rights' is rather against the principles I am attempting to enunciate. It would be better, if the provisions in the Bill be intended to be retained, to define 'mutual rights.' Instead of 'conferring and imposing mutual rights and obligations' it would be in consonance with axiomatic principles to substitute 'define' for 'confer and impose.' With this observation I beg to support the motion."

The Hon'ble BABU JATRA MOHAN SEN said:—"I am strongly in favour of this motion. No case seems to have been made out for a provision like this to be introduced here in Calcutta. If a provision of this kind is introduced here, I think the best way would be to introduce it by a separate Bill altogether, and that provisions be made in the shape of a law, and this may be done irrespective of this Bill, and a separate law may be passed hereafter if necessity arises."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I quite respect the motives which have led my hon'ble friends to insert this provision in the Bill. I quite believe that the object is to give owners the assistance which owners stand in need of to build their houses when the new provisions of the Bill will come into operation; but I desire to point out that we have got continuous houses in Chitpur and other parts of the town, and the want of such a provision has not been felt. Any one visiting Chitpur will see the houses there run like English houses along the street. They have got continuous houses;

they have got no party walls; there are double walls on both sides of Chitpur; the land is valuable there, but they have not felt the necessity of a provision like this.

"The other difficulty to which my hon'ble friend Mr. Buckley has referred is the difficulty about foundations. They have found no difficulty in that respect either at Chitpur. We do not need such a law; the necessity for it has not been felt; then why legislate in advance? I could understand it if you were legislating in advance, if the legislation adopted involved a distinct reform or a distinct convenience. I am not aware that any great convenience will follow; at any rate the want of that convenience has not been felt, and, when there is a strong body of opposition to this legislation on altogether new and distinct lines on the part of those who represent land-owning and occupiers' interests, I think the Legislature ought to defer to expression of opinion and abandon this section. I do not think there is any necessity for it. On the other hand, a section like this is likely to create alarm. People will come to the conclusion that a section has been inserted which fosters litigation and contention. It seems to me on the whole it is best to give up the section. I think all these circumstances ought to be taken into consideration before the Legislature enacts a provision like this."

The Hon'ble MR. APCAR, in reply, said:—"If those who are conversant with the subject think that legislation on the subject is necessary, I would not oppose the enactment of a definite law; but what I feel about this particular section is this: that rules are to be made which are to 'confer and impose mutual rights and obligations.' I think we ought not to give power and authority to make rules for such a very extreme purpose. I think it would be advisable for us to know what is meant by this provision. What are the mutual rights and obligations which the Government intend to confer and impose? If it is advisable to have a law on the subject, I think proposals for it should be submitted for proper consideration and deliberation in Council. I am not prepared to say that there shall be no regulations at all under the authority of the Legislature, but I think that we ought not to give this extreme power, at this juncture, to the Local Government when we do not know what the rules will be or what shape they will take in order to confer and impose these rights and obligations."

[*The President; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble THE PRESIDENT said:—"I propose that the further consideration of this section stands over till to-morrow.

The further consideration of these motions was then postponed till the next sitting of the Council.

SECTION 373.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 383 (*now* 373), line 5, for "thirty" be substituted "fifteen."

The Hon'ble Babu SURENDRANATH BANERJEE moved that in section 383 (*now* 373), line 5, for "thirty" be substituted "seven."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Section 383 (*now* 373) says:—

"Within thirty days after the receipt of any application made under section 371A (*now* 370) for approval of a site, or of any information or further information rquired under Schedule XIVA (*now XVII*) or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site, the Chairman shall, by written order, either approve the site or refuse, on one or more of the grounds mentioned in section 387 (*now* 377), to approve the site"

"It will be observed that 30 days is the time fixed for the first alternative, that is to say, 30 days must elapse from the time of the receipt of any information or further information required under Schedule XIVA (*now XVII*). I venture to think that the same period is not required after the Chairman has been satisfied that there are no objections which may be taken to the approval of the site. It seems to me that such a long time as a month is not necessary, and it would be better to put in 15 days, because the Chairman will necessarily have the previous 30 days to consider the matter."

The Hon'ble MR. BAKER said:—"I have been in communication with Mr. Bright about this matter, and I am prepared to accept the present amendment, but not the subsequent one of the Hon'ble Babu Surendranath Banerjee, to reduce the period to 7 days. We agree that 15 days ought to be sufficient, but 7 days will certainly not be enough, having regard to the size of the Municipal Office and the number of these applications."

[*Mr. Apcar; Babu Surendranath Banerjee; the President.*]

The Hon'ble MR. APCAR said:—"I did not send in a notice of any amendment in this respect, but I myself thought, independent of my hon'ble friend Babu Surendranath Banerjee's opinion in the matter, that 15 days was the proper time, and I think that would be sufficient."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My amendment is 7 days as regards that particular matter, but then it is 15 days as regards another matter."

The Hon'ble the PRESIDENT said:—"At the present moment we are discussing line 5 of section 383 (*now* 373), the motion of the Hon'ble Dr. Asutosh Mukhopadhyaya. Will the Hon'ble Babu Surendranath Banerjee speak on his motion No 231, that 'seven' be substituted for 'thirty' in line 5 of section 383 (*now* 373)?"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Yes, Sir, I will speak to that.

"What I wanted to say with reference to this motion was this: Under the present law you give 60 days practically for the approval of the site and of the building. The present law is this: if an application is made for the approval of the site, that application must be sanctioned or refused within 30 days of the submission of that application. Then, if an application is made after the approval of the site for the approval of the building, the application must either be approved or refused within 30 days. Therefore it comes to this, that under the present law the application for a building, including the application for a site, must be refused or approved within 60 days, assuming that the application for the construction of the building follows immediately after the disposal of the application for the approval of the site. Within 60 days the application must be refused or granted. That is the present law. Under the proposed law an indefinite amount of time is taken up, and that is the pont hich I want the Hon'ble Member in charge of the Bill to consider. The Chairman may take 60 days to be satisfied about a matter. Suppose I make an application for the approval of a site to-day, the Chairman must be satisfied that there are no objections. No definite length of time is suggested within which he must be satisfied. He may be satisfied, or he may not be satisfied even within two months' time. There is no time fixed there at all, and after he has been satisfied, then within 30 days he may approve or refuse. Therefore it

[*Babu Surendranath Banerjee.*]

come to this, that an application being made for the approval of a site, the Chairman, in order to be satisfied, may take an indefinite length of time—60, 90 or 100 days; there is no limitation of time, and after being satisfied he may take one month to communicate satisfaction. The Council have accepted the amendment of the Hon'ble Dr. Asutosh Mukhopadyaya that 15 days be substituted for 30 days after the Chairman has been satisfied. But the point is this: what safeguard have you that a particular rate-payer will not be indefinitely postponed or postponed for a very long time until the Chairman has been satisfied that the site is to be approved or refused? Therefore, I think there ought to be a limitation as to the time within which the Chairman must be satisfied. That is not laid down in the section. And the same remarks apply to the approval or rejection of the plan for a building. An application for the construction of a building is made, and then within 30 days after the Chairman has been satisfied, the approval or refusal is to be communicated to the party. The Chairman may take two months to be satisfied as to whether a plan should be approved or not. Therefore, there is no limitation as to the time within which the Chairman is to be satisfied with regard to the building. That is my first difficulty with regard to the matter.

"Then I desire to point out—and I think the Hon'ble Member in charge of the Bill will at once see the justice and cogency of my argument—the Chairman takes a month for signifying his approval to the plan of the building. He takes a month also for signifying his approval to the site. The two things stand on altogether a different footing. The site may be approved by simply looking at it. The approval of the building is a much more complicated matter. Therefore, Sir, if you take a month for the approval of a building, why should you take a month for the approval of the site? I think you ought to take less. Why should a rate-payer be put to unnecessary delay? I am quite aware that that is the present law. It is a month for the site and a month for the building; but under the present law there are not these difficulties. The Chairman is not given an indefinite length of time within which he has to be satisfied as to the site or as to the plan. If within that time the Chairman is not satisfied, the law empowers the man to proceed without the sanction of the Corporation. Therefore that is my difficulty, and I suggest that, instead of thirty, fifteen days should be given for the approval of the site. I am prepared to accept my friend the

Hon'ble Dr. Ashutosh Mukhopadhyaya's amendment, that, after the Chairman has been satisfied, within 15 days he must communicate his order; but I also suggest a limitation of the time within which the Chairman must communicate his satisfaction or disapproval. He must not be permitted to take an indefinite length of time. Therefore my first contention is this: that if you need 30 days for approving the plan of a building you do not need 30 days for the approval of the site. The two things stand upon a totally different footing altogether. If you need 30 days for approving the plan of the building, you need only half that time for approving the site. That is my first contention.

"Secondly, the Chairman ought not to be permitted an indefinite length of time within which he is to be satisfied as to the eligibility of the site or the goodness of the plan. There must be a limitation of time imposed within which he must communicate his satisfaction or the reverse. And then, Sir, I am perfectly willing to accept my hon'ble friend Dr. Asutosh Mukhopadhyaya's suggestion that instead of seven days which I have recommended the time should be 15 days within which the communication of the order of the Chairman should be made to the party.

"Those are the suggestions which I venture to make. I should like the Hon'ble Member in charge of the Bill to consider the matter from the point of view I have suggested. There would be of course acceleration fees. I do not refer to that, but an underling would keep a thing back on the excuse that the Chairman is not satisfied, and the person must pay something. My friend, the Hon'ble Mr. Apcar, suggests that this is perfectly true and we ought not to hold out a premium to practices of this kind. I strongly insist upon a limitation of time within which the Chairman must communicate to the rate-payer his approval or disapproval."

The Hon'ble Mr. BAKER said:—"I have accepted the amendment of the Hon'ble Dr. Asutosh Mukhopadhyaya. The greater part of what the Hon'ble Babu Surendranath Banerjee has said would have come in appropriately on amendment which stands in the name of Dr. Asutosh Mukhopadhyaya."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My friend's amendment proceeds upon proving a negative, because he cannot satisfy that there are no objections."

[*The President; Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

The Hon'ble THE PRESIDENT said:—"Will the Hon'ble Member in charge of the Bill reply now to the remarks of the Hon'ble Babu Surendranath Banerjee?"

The Hon'ble MR. BAKER said:—"I should like to hear what Hon'ble Members have got to say before I reply to these amendments."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion was then put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I withdraw the following motion in favour of the one just carried:—

that the words 'or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site' in lines 4, 5, 6 and 7 of section 383, be omitted."

The Hon'ble Babu SURENDRANATH BANERJEE'S motion was then, by leave of the Council, withdrawn.

The Hon'ble THE PRESIDENT said:—"Amendment No. 228 corrects apparently a misprint which does not exist in my copy of the Bill:—

that in section 383 (*now* 373), line 7, for 'wilfully' be substituted 'lawfully'."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"In my copy the words are 'no objections which may *wilfully* be taken'."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA and the Hon'ble Babu JATRA MOHAN SEN, by leave of the Council, withdrew the motions standing in their names that in section 383 (*now* 373), line 7, for "wilfully" be substituted "lawfully," it being explained that the former word was a misprint, which would be duly corrected.

The Hon'ble Babu SURENDRANATH BANERJEE moved—

(*No. 229*) that for the word "thirty" in line 1 of section 383 (*now* 373), the word "fifteen" be substituted;

(*No. 230*) that the words "or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site," in lines 4, 5, 6 and 7 of section 383 (*now* 373) be omitted.

[*Babu Surendranath Banerjee; Mr. Baker.*]

He said:—"I have already spoken on this amendment: that for the word 'thirty' in line 1 of section 383 (*now* 373) the word 'fifteen' be substituted; but the Hon'ble Member in charge of the Bill has said nothing whatever about this. I am sorry I have not been able to make myself understood. I generally can make myself understood.

"Section 383 provides as follows:—

"'Within thirty days after the receipt of any application made under section 371A (*now* 370) for approval of a site, or of any information or further information required under Schedule XIVA (*now* XVII), or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site, the Chairman shall, by written order, either approve the site or refuse, on one or more of the grounds mentioned in section 387 (*now* 377), to approve the site.'

"What I said was this: that the approval of the site and the approval of the building stand upon a totally different footing altogether. The approval of a building under section 384 (*now* 374) has to be communicated within a month, and the approval of the site has also to be communicated within a month. I do not think Sir, that is logical. If the approval of a building can be communicated within a month, the approval of a site ought to be communicated in less than a month. That is all I have got to say. I am perfectly free to admit that the present law places the two things on the same footing; but, Sir, as I have already observed, there are intermediate matters introduced in the Bill which do not find a place in the present law. The present law does not provide that the Chairman may take as long as he likes in order to be satisfied. The Bill does make a provision to that effect. The Bill says that within 30 days after the Chairman has been satisfied he is to communicate his order; but it does not lay down the limit of time within which the Chairman must be satisfied. He may take a month or two to be satisfied. Therefore, there is considerable difference between the Bill and the present law. I say once again that if you take a month to approve the plan of a building you surely do not want a month for the approval of the site upon which the building is to stand. Therefore, if it is a month in the one case, I venture to suggest that it should be a fortnight in the other."

The Hon'ble MR. BAKER said:—"There are not two months, but one month. If a person desires to build a masonry building on any site, he puts in both the applications for the approval of the site and for the approval of the building

simultaneously, and there is an express provision to that effect in the Bill, that is to say, these two periods of one month run concurrently. If a man chooses to put in the two applications together, the two periods run concurrently. Then he only has one month altogether, and it is impossible to reduce this period. The procedure is this. The application goes in first into the Municipal Office. It has to be sent to the Engineer's Department; the Engineer makes it over to one of his subordinates; the subordinate goes to the spot to make local enquiries. It goes back, is noted on, the Assistant Engineer initials it, and then it goes back to the Chairman. The number of building applications, as I mentioned the other day, is nearly 4,500 in a year, that is to say, there are 20 of these applications for every single working day; so it is impossible for them to be taken up the moment they are presented. The whole Municipal Office is a big machine, and it takes a certain amount of time for the various processes to be gone through. Any period less than 30 days would lead to difficulties of the same kind which have arisen under the present Act. The Hon'ble Babu Surendranath Banerjee says there is a difference between the Bill and the present Act, and he wishes to reduce the time allowed by the Bill to the time allowed by the present Act."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I do not want to reduce it to that point, but I want to reduce it as provided in the Bill. I want to make the time shorter."

The Hon'ble MR. BAKER said:—"I hope the Council will not agree to reduce any of these periods or to modify these sections in any way. They were all framed by the Calcutta Building Commission. The Building Commission went most carefully into this matter. They were aware—and every one in Calcutta is aware—that the Building Regulations under the present Act have been absolutely a dead-letter, and the Building Commission gave the greatest possible attention to this matter in order to remove what is admitted on all hands to have been a serious evil. This was the section which they drew up and which commended itself, as far as I remember, unanimously to the Select Committee. I do not remember any discussion being raised upon this point in the Select Committee, and I think we shall make a serious error if we reduce any of these periods or modify the sections in any way."

[*Mr. Buckley.*]

The Hon'ble MR BUCKLEY said:—"I entirely agree with what the Hon'ble Mr. Baker has said. It seems to me, if I correctly understood the Hon'ble Babu Surendranath Banerjee, that he is under some misapprehension. I understood him to say that the Chairman can take a month or two months or 90 days in giving a final sanction. I do not think that is so. The procedure is this: the person who wishes to erect or re-erect a building applies for the approval of the site under section 371A (*now* 370). He also applies for permission to erect a building under section 371A (*now* 370). He may do that at the same time if he likes. Rule 32 of Schedule XIVA (*now* XVII) distinctly says he may submit them at the same time. That rule provides that—

"An application for approval of a site for, and an application for permission to erect or re-erect, a masonry building, may, if the applicant so desires, be sent together."

"These applications must be in a certain form and supported by certain documents, which are defined in rules 30 and 33 with reference to buildings. Then the Chairman can, within 30 days, call for further information. He must call for that information within 30 days. That is rule 34, clause (*2*), with reference to the site and rule 34, clause (*3*), with reference to the building. Having received this information, he may still say it is not ample. In that case he may again under rule 34, clause (*4*), demand further information. If this further information is not received within three months, it is held that the application has entirely lapsed and the man must begin all over again and send in another application; but if this information is received, and approval is given, the Chairman signs the site plan and the building plan too under rule 35, Schedule XIVA (*now* XVII), and sections 383 and 384 (*now* 373 and 374). This matter, so far, is finished, but if he does not give the necessary permission, he can only refuse under section 387 (*now* 377) on certain defined grounds. These are, roughly speaking, that the proposals are not in accordance with the Act. Should the Chairman refuse, an appeal lies under section 385 (*now* 375) to the General Committee. Supposing the Chairman does not do this—if the Chairman neither gives nor withholds the permission within the time named. In that case the applicant can apply to the General Committee, who must reply within 15 days. If the man, therefore, does not get his information within the period of the second month, all he has to do is to apply to the General Committee, who must reply within 15 days. If they do not do that, then the man may assume that the permission is given and can go on with his building. I do not think

[*Mr. Buckley; Babu Surendranath Banerjee; Mr. Baker; the President.*]

there is any hardship at all. The rules are very carefully thought out, and I think they entirely meet the Hon'ble Babu Surendranath Banerjee's objections."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I just want to point out, with reference to what has fallen from the Hon'ble Mr. Buckley, that I quite recognise the fact that the two applications must be sent in concurrently. But if the two applications are not sent in concurrently, then the rules operate in the way I have suggested. Then, Sir, my hon'ble friend in the course of his observations referred to the Chairman calling for information, and he may or may not be satisfied on receipt of the information. But suppose, Sir, the Chairman, having received the information, and there being no further information to call for, does not communicate his satisfaction or the reverse to the party. The party must wait two months and then he must apply to the General Committee, and then there is another waiting for more than a fortnight. Therefore, having regard to all these inconvenences, why should we not definitely say that the Chairman must be satisfied within a certain limit of time? I think that ought to be laid down. Why should that matter be left in doubt? That is the point I am contending for in the present amendment, now that I have accepted Dr. Asutosh Mukhopadhyaya's suggestion that the time within which orders are to be passed should be fifteen instead of thirty days."

The Hon'ble MR. BAKER said:—"I submit, Sir, there is no amendment to that effect before the Council."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think the Hon'ble Member is taking a somewhat technical ground. If in the course of a discussion an important point is raised, I think I can crave Your Honour's indulgence to bring it forward for the consideration of the Council. It is a very serious matter and ought not to be shut out on a technical ground. I would modify that amendment with Your Honour's permission, and, if the sense of the Council is agreeable, I might modify my amendment with the view to suggest a limitation of time within which the Chairman must communicate his satisfaction or the reverse to the party."

The Hon'ble the PRESIDENT said:—"What would be the amendment which the Hon'ble Member would wish to substitute for amendment 230?" *

* Printed *supra*, p. 927.

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Buckley; the President.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I would suggest the following proviso:—

'Provided the Chairman shall communicate his orders within fifteen days after the receipt of all the necessary information.'

"If Your Honour will postpone this amendment, we might take it up again later on."

The Hon'ble MR. BAKER said:—Any change that is made in these sections will require the most careful consideration, because many of them, some 20 or 30, hang together. We shall not know where we are if any amendment is made without the most careful scrutiny."

The Hon'ble MR. BUCKLEY said:—"I submit the Hon'ble Babu Surendranath Banerjee has made out no case at all for any change."

The Hon'ble the PRESIDENT said:—"I think that is possibly the view which the Council will take, but the Hon'ble Babu Surendranath Banerjee wishes to substitute something else for amendment No. 230."*

The first motion (No. 229)* was then put and lost.

The further consideration of the second motion (No. 230)* was postponed.

SECTION 374.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work," in lines 5, 6, 7, 8 and 9 of section 384 (*now* 374), be omitted.

The Hon'ble THE PRESIDENT said:—"The motion of the Hon'ble Babu Surendranath Banerjee, that the words 'or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work,' in lines 5, 6, 7, 8 and 9 in section 384 (*now* 374), be omitted, is the same as the motion just lost."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It is practically the same as motion No. 230."*

The consideration of this amendment was postponed.

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* Printed *supra*, p. 927.

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "seven" be substituted for the word "thirty" in line 6 of section 384 (*now* 374).

He said:—"I suggest that, as the Hon'ble Dr. Asutosh Mukhopadhyaya's amendment has been accepted with reference to the site, this one may also be accepted with reference to the building, and the word 'fifteen' substituted for the word 'seven.' It follows the same principle. The order is to be communicated within fifteen days as regards the site, and then as regards the building the order may also be communicated within fifteen days."

The Hon'ble MR. BAKER said:—"I have no objection."

The motion was then put in the amended form and agreed to.

SECTIONS 375 AND 387.

The Hon'ble MR. BAKER moved—

that the following sub-section be inserted in section 385 (*now* 375), namely:—

"(*1a*) [*now* (2)] The decision of the General Committee shall be final;" and

that the following sub-section be inserted in section 401, namely:—

"(*1a*) The decision of the General Committee shall be final."

He said:—"With Your Honour's permission I will take these two amendments together. They are purely formal amendments. In various cases an appeal has been allowed from the decision of the Chairman to the General Committee; and, in all cases except two, it has been provided that the decision of the General Committee shall be final; but in these two sections, sections 385 and 401 (*now* 375 and 387), by an oversight that was not done. I propose now to remedy that defect. One of these relates to the case of an appeal to the General Committee against the order of the Chairman disapproving of a building site or refusing permission to erect a masonry building; and the other relates to a similar appeal in the case of a hut. No further appeal is provided for in the Bill, so that, even if these words were not inserted, no appeal would lie; but it is desirable to be consistent. As in other cases we have expressly provided that the decision of the General Committee shall be final, it seems expedient to insert the same words here also in these two sections."

The motions were put and agreed to.

[*Dr. Asutosh Mukhopadhyaya.*]

SECTION 377.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that clause (*5*) of section 387 (*now* 377) be omitted.

He said:—"I confess, Sir, that this clause has puzzled me very much. Section 385 (*now* 375) in the first place states:—

'(*1*) Whenever the Chairman refuses to approve a building-site for a masonry building or to grant permission to erect or re-erect a masonry building, he shall state specifically the grounds for such refusal, and the applicant may appeal to the General Committee against such refusal.

'(*2*) If the General Committee reject any such appeal, they shall, by written order, specifically state the grounds for such rejection.'

"This is followed by section 387 (*now* 377), which specifies the grounds upon which such refusal may be made. The section says:—

'The only grounds on which approval of a site for the erection or re-erection of a masonry building, or permission to erect or re-erect a masonry building, may be refused are the following, namely:—

(*1*) that the work, or any of the particulars comprised in the site-plan, building plan, elevations, sections or specification would contravene some specified provision of this Act or some specified order, rule or bye-law made hereunder;

(*2*) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule XIVA (*now XVII*);

(*3*) that any of the documents referred to in section 371A (*now* 370) have not been signed as prescribed by the said Schedule;

(*4*) that any information or documents required by the Chairman under the said Schedule has or have not been duly furnished.'

"These four grounds are perfectly specific and, if I may say so without impropriety, are thoroughly business-like. Then comes the fifth ground, which is of the vaguest possible description. It provides that approval of a site may be refused on the ground—

'that the applicant has not satisfied the Chairman that there are no objections which may lawfully be taken, on any of the grounds hereinbefore in this section mentioned to the grant of the said approval or permission.'

"What the object of this is I cannot make out. Nothing similar to it finds a place either in section 238 of the existing law or in section 346 of the Bombay Act. In section 385 (*now* 375) you distinctly say that the grounds of refusal are

to be specifically stated; you further provide that the applicant will be entitled to appeal to the General Committee against such refusal, so that, when the appeal comes to be heard, the validity of the ground of refusal by the Chairman may be challenged and its propriety tested. If, however, one of the grounds for the refusal is to be that the applicant has not satisfied the Chairman that there are no objections which may lawfully be taken, the provisions of the previous clauses, so specific in their terms, become absolutely infructuous. How is the poor, unfortunate applicant to prove a negative? If there are any objections which may validly be taken under the first four clauses, by all means reject the application; but do not neutralise their effect by the insertion of a clause which is repugnant to the first principles of jurisprudence."

The Hon'ble MR. BAKER said:—"The objection taken by the Hon'ble Dr. Asutosh Mukhopadhyaya is purely theoretical. This clause is an eminently practical one, and I would venture to remind the Council that it is taken from the Bill prepared by the Calcutta Building Commission, which was presided over by Mr. Justice Trevelyan. If all applications for buildings were always drawn up in a perfectly clear and regular manner, then there would be no necessity for this particular clause; but in practice that is not the case. It may be that through ignorance a man may send up his application in such a confused and inconvenient way that it is very difficult for the Chairman to ascertain whether the application really contravenes any provisions of the law or the rules or not: and in cases which are near the border line cases which the applicant knows are more or less doubtful, you may be, certain that he will use all his ingenuity to conceal the matters which would tell against him. In cases like that it is necessary, if we are to ensure that buildings shall not contravene the law, that the Chairman shall have power to say to the applicant 'you must convince me that such and such a rule or provision of the Act or rules has not been contravened,' and you must give the Chairman power to refuse to sanction the application until the applicant has satisfied him in that manner. As I said just now on another amendment, the Building Regulations in the past have been absolutely a dead letter. They have been set at defiance in every direction, the reason being that the Chairman and the Corporation had not sufficient legal power to enforce them. We ought not to fritter away the powers that are conferred by these provisions on the Chairman. If we do, we shall not effect the improvement which it was the object of the Building Commission to bring about."

[*Babu Surendranath Banerjee; Babu Jatra Mohan Sen; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I entirely support this amendment. This view also occurred to me, but as it was more or less a legal matter I did not send in an amendment. Really the unfortunate individual, who has to build a house, has to perform a logical impossibility: he has to prove a negative. I should like the Hon'ble Member in charge of the Bill to be placed in that position, and I should like to see him perform the impossible feat of proving a negative. My hon'ble friend, the Member in charge of the Bill, has appealed to the argument that the Building Commission was presided over by Mr. Justice Trevelyan, and that, therefore, we ought to accept the drafting of that Commission. With all the respect that I feel for Her Majesty's Judges, I am bound to say that they are not always masters in the art of drafting. They sometimes make the most deplorable mistakes. The greatest difficulties in regard to will cases have occurred in connection with wills drawn up by Lord Chancellors in England. One would have expected that they were great masters in the art of drafting, and when Lord Lyndhurst drew up his will he bungled in such a hopeless manner that the case had to be fought out in a Court of law. The question is whether by this provision, which ought to be interpreted in a commonsense way, you do or do not place individuals in an altogether impossible position. They are called upon to prove a negative. Can anyone do so? I do hope, Sir, the Hon'ble Member in charge of the Bill will relent from the uncompromising attitude which he has assumed with regard to this matter; and I find, Sir, that when it approaches tiffin time my hon'ble friend gets more and more uncompromising. I, therefore, beg to move for an adjournment."

The Hon'ble BABU JATRA MOHAN SEN said:—"I am in strong sympathy with this motion. It is difficult for any man to prove that there are no objections to a certain thing, and he cannot be expected to know what may be in the mind of the Chairman or any municipal authority. It is utterly impossible for any man to prove any such thing and to establish that his application is without any fault. If there is a fault, it is for the municipal authority to find out where the fault lies. I think this section is altogether unnecessary."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I admire the fertility of invention of the Hon'ble Member in charge of the Bill; but, with all deference to his opinion, I still think that, if there is any amendment of mine

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

which is of an eminently practical nature, it is this one. I am very glad to hear that this section was drafted by the Building Commission, which was presided over by Mr. Justice Trevelyan. This, at any rate, absolves my hon'ble friend from all responsibility in the matter. But, although the members of the profession to which I belong are invariably loyal and respectful to Her Majesty's Judges, they themselves will be the last people to claim infallibility or to expect an unreasoning adherence to their views. Let, us, therefore, scrutinise the matter cautiously. Contrast clause (1) of section 387 (*now* 377) with clause (5) of the same section. How can they possibly harmonise? In the very first clause of section 387 (*now* 387), you say that one ground of refusal is—

'that the work, or any of the particulars comprised in the site-plan, building plan, elevations, sections or specification would contravene some specified provision of this Act or some specified order, rule or bye-law made hereunder.'

"You follow this up by the provision that the Chairman may refuse sanction upon what must practically amount to nothing more than mere suspicion. You first introduce a very salutary rule, and, then most inconsistently and, I shall add, needlessly, proceed to destroy it by a vague and impracticable alternative."

The motion was put and lost.

SECTION 378.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the General Committee" be inserted after the word "Chairman" in line 1 of clause (*b*) of section 388 (*now* 378), and that the words "for special reasons" in lines 1 and 2 of the same clause be omitted.

He said:—"I would ask the Council to look at section 388 (*now* 378), clause (*b*). This section gives a sort of dispensing power to the Chairman to allow a masonry building to be erected without reference to the Building Regulations. In a matter like this, where the power of dispensing is to be exercised, there should be some sort of supervising authority; and I would suggest the desirability of the Council adopting this amendment. A special power of exemption ought to be exercised with the approval of the General Committee. A power of dispensation ought not to be freely exercised, and it ought not to be left to the discretion of one individual, but the order of the Chairman should be subject to the approval of the General Committee. There ought to be a safeguard provided in the Act."

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER said:—"This is a small matter and one which may fairly be left to the discretion of the Chairman."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If this is a small matter, my hon'ble friend might accept my view."

The motion was then put and lost.

SECTION 383.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name that in section 391D (*now* 383), sub-section (*2*), after "aforesaid" be inserted "either personally or by duly authorised agent."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that to section 391D (*now* 383) the following be added:—

"(*5*) Such appeal shall be preferred within thirty days from the date when any requisition under sub-section (*1*) or any order under sub-section (*3*) may be communicated to the owner.

"(*6*) No action shall be taken under section 602 (*now* 574) before the period for appealing has expired or during the pendency of an appeal which has been preferred."

He said:—"This amendment is absolutely necessary, inasmuch as no period of limitation is prescribed in the section. The Hon'ble Member in charge of the Bill has apparently realized this, and given notice of an amendment in similar terms. If that amendment commends itself to the Council, we shall have a general section prescribing a limitation of thirty day for all appeals In that case, it would not be necessary to press my amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I would like to substitute sixty for thirty days."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I have no objection to a period of 60 days in the particular case to which my amendment refers, but I would not give 60 days in all cases."

The Hon'ble MR. BAKER said:—"I strongly object to 60 days in this particular case. There might be something to be said in favour of making it 15 days, but I certainly object to 60 days."

The motion was then, by leave of the Council, withdrawn.

[*Babu Jatra Mohan Sen; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion standing in his name that in section 391D (*now* 383), sub-section (*4*), the words "subject to the control of the Corporation" be inserted after "shall."

SECTION 389.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion that clause (*5*) of section 387 (*now* 377) be omitted having been lost, the Hon'ble Member, by leave of the Council, withdrew the motion, standing in his name, that clause (*4*) of section 403 (*now* 389) be omitted.

SECTION 393.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or private cow-house" be inserted after the word "aviary" in line 6 of clause (*a*) of section 415 (*now* 393).

He said:—"This is a small matter. You exempt poultry-houses in which the members of the Christian community are interested. The members of the Hindu community keep cows, and they ought to be allowed the same exemption: they keep a cow or two in order to have pure milk for their families. I do not think the exemption I ask for is a very great one."

The Hon'ble MR. BAKER said:—"A cow-house of any sort is a building of an entirely different class from other buildings mentioned in this section; plant and summer houses are flimsy temporary buildings built of very light materials, and cannot cause any nuisance."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My hon'ble friend has discreetly refrained from referring to poultry-houses, which are a distinct nuisance."

The motion was then, by leave of the Council, withdrawn.

SECTION 395.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that in section 416B (*now* 395), sub-section (*6*), be added:—

"The decision of the Local Government shall be final."

inasmuch as a similar amendment upon section 365 (*now* 337) had been lost.

[*Dr. Asutosh Mukhopadhyaya.*]

SECTION 397.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved—

(1) that in section 416D (*now* 397), sub-section (*1*), lines 3 and 4, the words "sell" and "or otherwise transfer" be omitted,

(2) that sub-section (*3*) of section 416D (*now* 397) be omitted.

He said:—"These, Sir, are matters of vital importance, and, if the section in question had not been drafted by the Calcutta Building Commission, the recommendations of which are regarded with something akin to superstitious reverence, I should have been sanguine that my amendments would prove acceptable to the Council. Chapter XXIIA (*now* XXV) of the Bill contains four sections—416A, 416B, 416C and 416D (*now* 394, 395, 396 and 397)—which deal with questions of general improvement, and authorise the Corporation to acquire land and buildings for purposes of making improvements. Section 416B (*now* 395) authorises the Corporation to frame a scheme for carrying out improvements; and section 416D (*now* 397) provides that, when a scheme for carrying out such work by the General Committee has been confirmed by the Local Government, the General Committee may either proceed to carry out the work in accordance with the scheme or transfer the land absolutely to some competent person for the purpose and under the condition that he will carry out such scheme of improvement. The intention, therefore, clearly is that, when the Corporation has acquired land for the purposes of improvement, they may not only empower an outsider to carry out such work, not only lease the land for effecting such improvement, but they may also sell the land, completely sever their connection with it, and leave the purchaser to carry out the improvement. The difficulty I feel is that, as soon as a sale has been effected, the Corporation will have no further hold on the owner. There are two things to be provided for—first, the improvements must be actually carried out, and, secondly, after they have been effected, we must take care that the land is not allowed to lapse again into its original condition. If you restrict yourself only to transfers by way of lease, you can secure these two conditions at once; for you may have a covenant in the lease that if these improvements are not effected the lease shall come to an end; and you may further covenant that, if, after the improvements have been once effected, the land is again used for purposes inconsistent with the object of the lease, there will be a forfeiture of the tenancy, and the Corporation will be entitled

[*Dr. Asutosh Mukhopadhyaya ; Mr. Baker.*]

to re-enter. But suppose that instead of granting a lease you sell the land. There is a provision in section 416D (*now* 397) that security is to be given by the purchaser for the due carrying out of the work in accordance with the scheme. You may enforce the security in the case of default. But suppose the land is reclaimed, and subsequently allowed to lapse into its original condition, what control will the Corporation possesss over the transferee? None whatever, and in extreme cases the only remedy will be a fresh acquisition of the land for purposes of sanitary improvement. You can grant leases for long periods, if you like. The Bombay University, for instance, has a lease from the Government for 999 years at a rent of one rupee a year. Practically, they may be regarded as the owners of the land, but the relation of lessor and lessee, nevertheless, exists, and if you do the same thing here you will not lose all control over the transferee."

The Hon'ble MR. BAKER said:—"This section was recommended by the Calcutta Building Commission. It is referred to in paragraph 136 of their report, and this section was drafted by them. That is the chief reason for making no alteration in the section. And, as regards the particular case of the Bombay University, the Hon'ble Member says that, though they have a lease for 999 years, the Government still has the power of control. How can that be? In what respect does a lease for 999 years differ from a sale outright? And by clause (*3*) of section 416D (*now* 397) power is taken to obtain security for the carrying out of the purposes for which the sale or lease was made, and the Hon'ble Member has not observed the force of the words 'in accordance with such scheme.' I don't think we ought to tie the hands of the Corporation and prevent them from selling the land outright if they find it expedient to do so. They may wish, for instance, to transfer the land to the Port Commissioners, who are just as likely to carry out the work in the way intended as the Corporation itself; and the Corporation should, therefore, be allowed to sell the land outright to the Port Commissioners. Again, the Eastern Bengal Railway may desire to carry out a work of this kind in the neighbourhood of its property at Sealdah, and there is no reason why the land should not be sold to them. I merely mention these as possible cases, though, as a rule, I think the Hon'ble Member is right that a lease will be preferable; but we should not prevent the Corporation from selling the land if they think it expedient in any case to do."

[*Mr. Apcar; Mr. Oldham; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. APCAR said:—"I don't think we should prevent the Corporation from selling if they think fit. If they desire to give a lease, they may do so; but I don't think it would be wise to entirely preclude them from the power to sell."

The Hon'ble MR. OLDHAM said:—"I would ask if, in the case of the lease held by the Bombay University for 999 years, the University has power to transfer? If so, I see little difference between the grant of such a lease and a sale."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I regret I have not been able to make my position clear. If you sell the land, you have no hold on the purchaser. If you lease it out, you retain some control over the lessee. The reason for this difference is obvious, for, in the case of a lease, the law authorises the lessor to place restrictions upon the use of the land; in the case of a sale, the transferor completely severs his connection with the land and cannot enforce a restrictive covenant inconsistent with the rights of an absolute owner. The amendment which the Hon'ble Member in charge of the Bill is prepared to accept will answer one of my purposes. But I cannot admit that this, by any means, will settle the whole difficulty."

The Hon'ble Member's first motion was then put and lost.

The last motion having been lost, the Hon'ble Member, by leave of the Council, withdrew his second amendment.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that at the end of sub-section (*2*) of section 416D (*now* 397) be added:—

"or in the event of the lessee, after carrying out the work, using the land or buildings leased to him, or any part thereof, or allowing the same to be used, for any purpose which is inconsistent with the said scheme."

He said:—"I understand that the Hon'ble Member in charge of the Bill is prepared to accept this amendment subject to a mere verbal alteration. The form suggested by the Hon'ble Member is this:

'or in the event of the lessee, after carrying out the work, uses the land or building leased to him, or any part thereof, or allows the same to be used for any purpose which is inconsistent with the general scheme.'

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

"I have already explained the object of this amendment in the course of the debate upon the last motion. When action is taken by the Corporation under this chapter for the purposes of sanitary improvement, they ought to assure themselves, not only that the improvements will be duly effected, but also that, once they have been effected, they will be scrupulously maintained. I venture to think, therefore, that a right of re-entry ought to be reserved as well in the case of failure to maintain as in the case of failure to effect improvements."

The Hon'ble MR. BAKER said:—"This is quite a reasonable amendment, and I shall be glad to accept it."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 416D (*now* 397), sub-section (*3*), line 5, after the word "out" be inserted "and maintenance."

He said:—"This amendment is based on the same principle as the last one."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that to section 416D (*now* 397) the following be added:—

"(4) The covenant referred to in sub-section (*2*) shall be binding on all transferees from the original grantee; and such transferees shall be bound to give security under sub-section (*3*)."

He said:—"This amendment is of a somewhat technical character, and with reference to it I have been in communication with the Hon'ble the Legal Remembrancer, who has also discussed this question with the Secretary. I shall try to explain the position to Hon'ble Members as briefly as possible. There are certain covenants embodied in a lease which are said to run with the land: if so, they are binding on all transferees. Other covenants do not run with the land and are not binding on transferees without notice. Now, the question whether a particular covenant belongs to the one class or the other may, and often does, lead to ingenious legal discussions of extreme nicety and difficulty. Indeed, it would be easy to refer to cases reported in

the books, not a few of which show how eminent Judges may be hopelessly divided upon a matter which appears to be very simple to lay minds. If my amendment is accepted, it will become unnecessary to discuss this difficult subject in at least one instance."

The Hon'ble MR. HANDLEY said:—"I have much pleasure in corroborating and confirming all that the Hon'ble Member has said. This is no doubt a most difficult point of law and leads to as much trouble and expense in drawing up leases as any other point of law. If these words are not put in and these lands are transferred, the transferee may say 'I know nothing of this', and the Corporation will have constant trouble to compel the transferee to comply with the terms embodied in the lease. By adding these words we settle the terms upon which transfers may be made, and there can be no more litigation than might take place in the case of the lessee himself."

The Hon'ble MR. BAKER said:—"I accept the amendment with the omission of the words after the semi-colon."

The motion was then put, with the omission of the words after the semi-colon, and agreed to.

SECTION 400.

The Hon'ble MR. BAKER moved that in sub-section (*2*) of section 419 (*now* 400), the words "not more than two hundred feet" be substituted for the words "not less than two hundred feet."

He said:—"This is a clerical error in the Bill which occurred originally in the Bill drafted by the Calcutta Building Commission. The word should be 'more' and not 'less.' The Hon'ble Dr. Asutosh Mukhopadhyaya has proposed an amendment to the same effect. I regret that the Select Committee did not detect the error."

The motion was put and agreed to.

The last amendment having been agreed to the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the similar motion standing in his name.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "sixteen" be substituted for the word "twenty" in line 2, and the word "ten" for the word "fifteen" in line 5, of sub-section (*2*) of section 419 (*now* 400).

[*Babu Surendranath Banerjee; Mr. Baker.*]

He said:—"This section deals with improvements in bustees. For streets of 20 feet width I propose to substitute 16 feet, and for passages of 15 feet I propose 10 feet. These are the minima fixed; but no maxima have been fixed, and the minima may be raised to any point which the General Committee and the Executive may think fit. In favour of my amendment is the fact that it is the present practice. When I joined the Corporation bustee roads used to be ´ feet wide · we have been steadily adding to the width, and it is now 16 feet. This amendment will not fetter the hands of the Corporation in any way; they may raise the minimum to any figure they like."

The Hon'ble MR. BAKER said:—"I will remind the Hon'ble Member that, when this matter was discussed in the Bill Committee of the Corporation, some one proposed to reduce the width of bustee roads from 20 feet to 16 feet, and a member of the Bill Committee pointed out that the Bustee Committee had gone beyond 16 feet and had worked up to 20 feet, and upon that the Bill Committee decided not to propose any modification. I fully recognise that the Corporation has realized its duty in this respect, and has been steadily increasing the width of roads in bustees. The present bye-law provides a minimum of 16 feet; but the Bustee Committee have gone beyond that; they have worked up to 20 feet. I think we should take advantage of what the Bustee Committees have done and start from the minimum which they have practically established."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"There may be cases in which it may be expedient to permit the opening of a bustee road of 16 feet; but if you fix a minimum of 20 feet and stereotype it into law, the Corporation will be unable to exercise any discretion in the matter. And when the Corporation has of its own accord resolved to have streets 20 feet in width, though the bye-law provides a minimum of 16 feet, I think the Corporation may be trusted not to adopt a lower minimum except in special cases where it may for some reason or other be necessary."

The motion was then put and lost.

SECTION 406.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "Corporation" be substituted for "General Committee" in line 1 of sub-section (*1*) of section 425 (*now* 406).

[*Babu Surendranath Banerjee; Mr. Baker.*]

He said:—"The procedure to be followed in connection with unhealthy bustees where the urgency of the case is such that action must be taken at once is that the General Committee has to take action in the first instance. I have to call attention to section 430 (*now* 411), which says that the Corporation may at any time after the receipt of a report under section 425 (*now* 406) pass final orders. The Corporation has to deal with the report."

The Hon'ble MR. BAKER said:—"That is an entire mistake. The Corporation has only to deal with the purchase or acquisition of land which is not bustee land. Section 425 (*now* 406) provides for a report by a Medical Officer and an Engineer, the next section provides for the approval of that report, and section 427 (*now* 408) gives the General Committee power to require owners or occupiers to carry out the requisite improvements. Section 430 (*now* 411) is merely an incidental section which gives the Corporation power to acquire land which is not bustee land."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I would ask what was meant by land which is within the bustee and yet is not bustee land."

The Hon'ble MR. BAKER said:—"Bustee land is defined. It is possible you may have a masonry building within a bustee."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"But under the existing law such action is proposed to be taken by the General Committee. The inspecting officers have to submit a report; the report may propose to interfere with the rights of private persons. That is not a power vested in the Chairman, but in the Commissioners in meeting. To deal with the rights of property is a very important matter, and it is right and proper that, if the initiative is taken by the General Committee, the Corporation should have some power of supervision. The present procedure is for two medical officers to report; that report comes before the Chairman. There is a Bustee Committee which is a Committee of the Corporation; the report then goes before the Bustee Committee and is considered by them, and recommendations are made by them; the proprietors are invited to be present and make their objections, and all the objections are heard and disposed of and recommendations are made which go before the Corporation for confirmation. The members of the General Committee who represent the rate-payers will not be in the same

proportion as they are now; they will be in a minority. The representatives of the rate-payers in the Corporation will not be in the same minority; they will be in a minority, but, as I read the law, they will not be in the same minority as in the General Committee. If this matter involving the consideration of private rights is subject to the control of a body in which the rate-payers have a larger number of representatives, they will have greater confidence in the decisions of that body. That is the view of which I ask the Council to consider. The point is that the procedure under this section involves the consideration of private rights. The report may say that a road has to be run through the bustee, that certain huts are to be removed, that a tank must be filled up. All these are invasions on private rights. They may be perfectly justified, but in dealing with private rights an appeal ought to lie to a body in which the representatives of the people are to be found in larger numbers and in whose decision they will have confidence. As the Court of Directors once said, it is not necessary that we should administer justice in India, but we should inspire the people with the confidence that justice is done. Therefore, I say with confidence that some right of supervision, some sort of control, ought to be invested in the Corporation in which the representatives of the rate-payers would be found in greater proportion."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has urged that this power of taking action under section 425 (*now* 406) should be taken away from the General Committee and transferred to the Corporation, because the powers conferred under that section affect private rights. I will point out that this section primarily and directly affects the question of public health, because it applies to cases which in the opinion of the Chairman are a matter of urgency, and therefore it is a matter for the General Committee to deal with. If we bring in the Corporation, we shall have canvassing, and there is a likelihood of the matter not being decided on the merits. In reference to the later clauses of the Bill, I find that a number of amendments have been proposed which would have the effect of transferring to the Corporation powers which are exercised by the Chairman or the General Committee. I strongly object to such amendments, and shall oppose every amendment which will have that effect, and I shall do so even though I may be told that my attitude is uncompromising. All these matters have been carefully considered by the Select Committee; they assigned to each municipal authority the powers and functions which they

thought might most appropriately be assigned to it, and I strongly deprecate any interference with, or modification of, those powers. I think indeed that the Select Committee went too far in transferring powers from the General Committee or the Chairman to the Corporation. The position which the framers of some of the amendments seem to take up is that no power should be made over to the Chairman or to the General Committee if it can possibly be exercised by the Corporation. That is exactly the opposite and antithesis of what I hold to be the true principle. I maintain that no power should be reserved for the Corporation if it can with due propriety be exercised by the Chairman alone or by the General Committee. It is because these amendments contravene that principle that I resolutely object to them."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am in full sympathy with the principles laid down by the Hon'ble Mover of the amendment, and my only regret is that this amendment does not give effect to those principles. The substance of the amendment is that in section 425, (*now* 406) clause (*1*), for the words 'General Committee' the word 'Corporation' should be substituted. That section deals only with the preliminary inspection, which appears to me to be executive work, and it does not seem to me to be very material whether at this stage action is taken by the General Committee or by the Corporation. The important sections are 426, 427 and 428 (*now* 407, 408 and 409). It would be much better if the Corporation were substituted for the General Committee in those sections. The preliminary inspection may be made by the order of the Chairman, but the invasion of the rights of private property should take place only by order of the General Committee subject to an appeal to the Corporation."

The Hon'ble MR. BUCKLEY said:—"The hon'ble gentleman has referred a good deal to the rights of private property, and in defence of his amendment he again asserts a principle, which he has asserted so often, that jurisdiction should be given the highest authority in comparatively unimportant matters; he wants to give authority to the Corporation in this case in which the Bill gives it to the General Committee. The matter relates to bustees and to buildings. I would ask what the Corporation has done in this town with reference to buildings? They have excellent bye-laws in many ways, but the Corporation has rarely carried them out, and has produced a state of affairs in this town which is undoubtedly very bad. I have lately had some measurements made

in a portion of this town, and, in spite of the bye-laws in existence, there are parts of Calcutta where 85 to 86 per cent. of the entire area is densely covered with buildings, and that is mainly, I think, due to the fact that the administration of the bye-laws rests with the Corporation. I doubt whether we realize fully the condition of affairs in Calcutta. There are many reports on the subject. I have one here which was made to the Building Commission. It refers to different specific areas, and speaks of the space in which natives live. I doubt whether there is any gentleman in this room who does not live or sleep in a room containing from 1,500 to 2,000 cubic feet of space, and possibly in many cases from 6,000 to 7,000 feet. On the other hand, there are people who live in as little as 120 or 130 cubic feet of space, and in one or two cases in this report as little as 60 feet. In England 800 feet is taken to be a reasonable amount of space for each person. In India, 600 feet is the minimum in barracks, I believe, and in no case is there less than 400 feet in any jail. And yet here there are people living in 60 or 100 feet, 60 feet being equivalent to 6 feet in length, 2 feet in breadth and 5 feet in height. This would have been largely prevented if the bye-laws were carried out. The Hon'ble Member again wishes to enforce the principle of centralisation which he so strongly advocates. If he does so, he will, in my judgment, do wrong."

The Hon'ble MR. APCAR said :—"When there has been so marked a change in the constitution of the Corporation as has been brought about by the letter of the Government of India, and when a large number of Hindu members are taken away from the Corporation altogether from whom only, according to the statement by the Government, there is danger of insanitary conditions being permitted, the prospect has been changed to such a degree that there ought to be no difficulty of any kind in adopting this amendment; and, with reference to what fell from the Hon'ble Mr. Buckley with regard to the excellent bye-laws which now exist, that was not the opinion of the late Health Officer of the Corporation; and it has been our prayer, which was unheeded by the Local Government, to have further legislation to enable us to deal more effectively with questions relating to buildings. If there are existing bye-laws which are sufficient for all purposes, how is it that they were allowed to be overridden? Surely the Chairman should have prevented the infringement of those bye-laws? It has been said that the carrying out of the bye-laws was subject to the confirmation of the Corporation. The bye-laws ought not to have been allowed to be infringed in Committee, and if there had been any breach of them permitted in Committees the Chairman ought to have ruled out any such attempts when the matter came before the Corporation for confirmation. I

conclude that under this Bill there will be a reference also to one of the Standing Committees; there will be some procedure and some method of dealing with such cases, and the Corporation cannot rightly be charged with having disregarded the sanitary provisions of the bye-laws in the past. When there is to be such a change, the predominance of the Hindus taken away, and the balance of power shifted in such a degree, surely the Corporation of the future may be trusted!"

The Hon'ble Mr. OLDHAM said:—"I wish to vindicate the Corporation and what my hon'ble friend Babu Surendranath Banerjee has said on one point. As far as my information goes, the Corporation has done exceedingly well as regards bustee improvement, and the stoppage of bustee improvement work has been due to the policy of one of the Chairmen who believed the funds could be better spent otherwise. I have heard the imperative need for bustee improvement urged over and over again in the General Committee."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It has been said that the Corporation has done badly in respect of buildings. If for argument's sake I admit the whole of that indictment, how does it affect this question of bustees? The question of bustees is not a question of buildings, and the Hon'ble Mr. Buckley knows what our action has been with regard to bustees. But I am prepared to accept the challenge with regard to buildings. This matter was carefully gone into by the Corporation. This particular indictment was made by the Calcutta Building Commission against the Building Committee of the Corporation. A statement was drawn up by the Corporation, from which it appeared that in no more than a dozen cases did infractions of the bye-laws take place under the orders of the Building Committee. Your regulations and bye-laws were defective; they bristled with inconsistencies; shrewd lawyers were always able to drive a coach and four through them. Therefore, if it has been impossible to give effect to the building regulations or bye-laws, the Corporation is not the only party to blame. The bye-laws were the bye-laws of the Corporation, confirmed however by the authority of the Government of Bengal, and, if there has been failure, the responsibility does not attach simply to the Corporation; a portion of that responsibility must be borne by the Government of this Province. But I am not concerned in defending the action of the Corporation in the matter of buildings. These observations are irrelevant to the present question. The question is—how has the Corporation been acting with regard to bustees? We have spent more than thirteen lakhs of rupees in improving bustees within the last

few years; we have contracted loans; we were inspired, I might say, with something like apostolic zeal in this matter. It is on the shoulders of the Chairman appointed by the Government that the blame, if any, should be thrown. It was the deliberate policy of Mr. Ritchie that caused the works to be stopped, for he held that it is no part of the business of the Corporation to spend large sums of money on bustee reclamation. We have done our best, and, if we have not been able to do more, it is not our fault. We have been restrained by the Executive. If it is true that the Corporation has done all that it could possibly do, why does the Hon'ble Member in charge of the Bill propose to take away this power from the Corporation? The Corporation has done well; it has done admirably; it has received the acknowledgments of the Government for what it has done. If that is the verdict of competent authority, I ask with what show of reason and justice can you withdraw the power which the Corporation at present possess of taking the initiative? There is not even the shadow or semblance of reason for withdrawing those powers, except in the statement to which I listened with amazement that no power should be left to the Corporation which could be exercised by any other authority."

The Hon'ble MR. BAKER said:—"With due propriety."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"There is hardly a power which cannot be exercised with due propriety by some lower authority. If that statement is accepted, why not do away with the principle of local self-government? If this principle is to find acceptance with this Council, it will be far simpler to do away with the semblance and show of local self-government, which is attempted to be preserved under this Bill, and make the Municipality a department of the Government. I think this a wholly unjustified statement to make, and I am perfectly certain that a system like that is a system with which the Local Government can sympathise. My hon'ble friend himself says that the Bill does not do away with the principle of local self-government, but involves only a re-adjustment of the principle. If he holds that no power should be reserved to the Corporation which can be exercised by any other municipal authority, if that principle is accepted, then local self-government is at an end. The Hon'ble Member, moreover, has remarked that it is undesirable to give this power to the Corporation because there will be canvassing. Is it not much easier to canvass 12 persons than 50? If you admit that there is canvassing, and admitting it to be true that there has been canvassing in the past, the fact remains that in spite

[*Babu Surendranath Banerjee.*]

of such canvassing the Corporation did their duty; therefore, despite whatever canvassing there was, the Corporation did their duty in the past, and the Corporation may be trusted to do their duty in the future. Therefore, I submit that no case has been made out for withdrawing this power. It is a matter of the first importance that when you deal with private rights you should have a tribunal which should command the confidence of those whose rights are invaded. The matter will be dealt with in the first instance by the Chairman and the General Committee, and then an appeal should lie to the Corporation. I think such a procedure is consistent with sound sense and reason. I hope that in consideration of all these circumstances, namely, that the Corporation has done its duty well, that it is a body which commands the confidence of the public, and that it is necessary that that confidence should be maintained, this amendment will be accepted by the Council."

The motion being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Beikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhytar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Council was then adjourned to Saturday, the 23rd September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 785G—300—26-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Saturday, the 23rd September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding.*
The Hon'ble MR. W. B. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. C. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

QUESTION AND ANSWER.

GUN LICENSES IN DACCA DISTRICT.

The Hon'ble BABU SURENDRANATH BANERJEE said:—

"Will the Government be pleased to state the number of gun licenses issued in the Dacca District in 1898, the number of such licenses issued in 1899, the number of applications for gun licenses refused in 1899, and the reasons for such refusal?

"Is the Government aware that river dacoities have taken place within the last six months at Souka Bazar, Ghiar Bazar, Bhadra and other places within the subdivision of Manikganj? Will the Government be pleased to state the cash and other property stolen from the boats of traders and purchasers of jute in connection with these dacoities? What step does the Government intend to take to remedy this state of things?"

The Hon'ble MR. BOLTON replied:—

"The number of gun licenses issued in the Dacca District in 1898 was 2,735; and up to date in 1899 1,685 have been issued. There is thus a decrease of 1,050. The Commissioner has explained that the reduction is due to the applications for renewal of licenses having been closely scrutinised in the present year, in order to prevent fire-arms being held by those who have no need for them for the protection of person or property, or by persons who use them for the indiscriminate slaughter of birds for their plumage. He mentions that the destruction of birds has been carried on to such an extent that even paddy birds have been almost exterminated. The opinion of the Government in regard to this reduction is not asked in the Hon'ble Member's question; but I may take the opportunity of informing him that the suddenness of the reduction has not the approval of the Government, and that this opinion is being communicated to the local officers.

"There have been two river dacoities in the Manikganj Subdivision during the present year, the property stolen being valued at Rs. 190, including Rs. 155 in cash, in one case, and at Rs. 517, including Rs. 507 in cash, in the other. These dacoities occurred in August and were the work of a local gang. A clue has been obtained, which will, it is expected, ensure the conviction of the dacoits and the breaking up of the gang."

CALCUTTA MUNICIPAL BILL.

SECTION 62.

The Hon'ble MR. BAKER moved that in section 55 (*now* 62*), line 1, after the word "resignation" the word "removal" be inserted.

He said:—"This is a consequential amendment. It will be remembered that, on the motion of the Hon'ble Babu Surendranath Banerjee, a section was inserted in the Bill authorising the Local Government, at the instance of

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets wherever the new numbering differs from the old

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

the Corporation, to remove any Commissioner who had been found guilty of disgraceful conduct or misconduct in the discharge of his duties. In consequence of that new section, it is necessary to insert the word "removal" in section 55 (*now* 62) which provides for the filling up of vacancies by nominations in the event of elections failing."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have great pleasure in supporting the amendment."

The motion was put and agreed to.

SECTION 116.

The Hon'ble MR. BAKER moved that in section 108 (*now* 116), line 2, for the words "any member of the General Committee" the words "any other person" be substituted.

He said:—"It will be remembered that on the motion, I think, of the Hon'ble Babu Surendranath Banerjee, an amendment was carried to the effect that cheques are to be signed, in the absence of the Chairman or Vice-Chairman, by some person appointed by the Chairman with the approval of the General Committee. In consequence of that, it becomes necessary to insert the words 'any other person' in section 108 (*now* 116), line 2."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to support the amendment."

The motion was put and agreed to.

SECTION 152 AND NEW SCHEDULE.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved—

(*1*) that for sub-section (1) of section 148B (*now* 152), the following be substituted, namely:—

"(*1*) All valuations of buildings and lands situated in the districts mentioned in column 1 of Schedule IVC (*now* VII), which have been made by competent authority and are in force at the commencement of this Act, shall remain in force for the periods terminating on the dates respectively prescribed in that behalf in column 2 of that Schedule; and the annual value at which buildings and lands in each such district are to be assessed after the date so prescribed shall be fixed by the Chairman for a period of six years, and thereafter for successive periods of six years."

[*Dr. Asutosh Mukhopadhyaya.*]

(2) that the following schedule be added to the Bill, namely :—

SCHEDULE IVC (*now* VII).

Dates up to which valuations made before the commencement of this Act are to remain in force.

1	2
District.	Date up to which valuations made before the commencement of this Act are to remain in force.
Ward No. 1 ...	The 31st March, 1902.
" " 2 ...	The 31st March, 1903.
" " 3 ...	The 30th September, 1902.
" " 4 ...	The 30th September, 1903.
" " 5 ...	The 31st March, 1904.
" " 6 ...	The 30th September, 1901.
" " 7 ...	The 30th September, 1904.
" " 8 ...	The 31st March, 1905.
" " 9 ...	The 30th September, 1905.
" " 10 ...	The 31st March, 1906.
" " 11 ...	The 30th September, 1900.
" " 12 ...	The 31st March, 1901.
" " 13 ...	The 31st March, 1901.
" " 14 ...	The 30th September, 1900.
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" " 19 ...	The 30th September, 1904.
" " 20 ...	The 31st March, 1904.
" " 21 ...	The 30th September, 1903.
" " 22 ...	The 31st March, 1903.
" " 23 ...	The 30th September, 1902.
" " 24 ...	The 31st March, 1902.
" " 25 ...	The 30th September, 1901.

[*Dr. Asutosh Mukhopadhyaya.*]

He said:—"This amendment, Sir, is of some practical importance, and I would take the liberty of explaining to the Council its meaning and effect. Under the existing law, that is, the law of 1888, the whole of Calcutta is divided into districts for purposes of assessment. As a matter of fact, the number of districts corresponds with the number of wards in the city. It was intended by the Act that the valuation of all houses situated within any district should take effect from one day and should also terminate on one day; that is to say, although it is practically impossible to value all the houses in the ward on the same day, yet for purposes of administrative convenience it was to be taken that the valuation took effect in each of the wards from a certain date and terminated on a specified date. That is the way in which the business of the Corporation was carried on, and everybody thought that to be the law, until last year. But by a decision of the Small Cause Court (which the High Court could not set aside or revise) the matter was explained to be just the other way. The facts of that particular case were these. In 1891 the premises of a rate-payer were valued. He preferred an objection, and, by reason of the very large number of such objections preferred by other rate-payers all over the city, his objection could not be disposed of till 1895. Then in 1897, that is to say, six years from the date when the original assessment was made, the Corporation again made a fresh assessment. The rate-payer took an objection that he was entitled to have the six years counted from the date that his objection was disposed of, that is to say, six years from 1895. His objection was overruled by the Corporation. Then he preferred an appeal to the Small Cause Court, and the Judge of the Small Cause Court held that there was no cycle for each ward, but that there was a cycle for each separate holding in the city. The matter was taken up before the High Court, and that Court held that, whatever the merits or the demerits of the decision of the Small Cause Court might be, it had no jurisdiction to interfere in the matter at all. Therefore, in order to prevent the recurrence of such a case in future, section 148SS (*now* 169) was put into this Bill. That section provides that 'when the valuation of any building or land is revised in consequence of an objection made under section 148K (*now* 160) or an appeal preferred under section 148M (*now* 162), the revised valuation shall continue in force for the unexpired portion of the period for which the first-mentioned valuation was made, and no longer.' This would be sufficient to meet all future cases, but unfortunately this section has no retrospective

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

effect; and the consequence is that if we start with a different cycle for each different holding in the city, in spite of section 148SS (*now* 169), the difficulty will continue. So far, however, as that section applies, when the Corporation has to assess a holding which has never been assessed before, the difficulty will not arise. Take for instance the rate-payer whose case was decided by the Small Cause Court. He has got a decision in his favour that the assessment in his case is to run for six years from 1895, so that in his case there will be a cycle beginning with 1895. Now, it is quite manifest that, if instead of there being a cycle for each ward there be a separate cycle for each holding, it will be absolutely impossible to carry on the business of the Corporation. To-day you may find that there are five houses in a particular ward the assessment of which has come to an end; to-morrow you will find 25 houses in five different wards the assessment of which has come to an end, and so on. The amendment of which I have given notice will bring that state of things to an end. My original suggestion was that an arbitrary period should be fixed, that is to say, after two years from the date on which this Act comes into operation, the assessment of all the holdings in the city should terminate. It was, however, pointed out to me by the Hon'ble Member in charge of the Bill that that would be highly inconvenient. He was good enough to place details at my disposal showing the precise dates on which the valuations in each ward were intended to take effect, and would have taken effect but for the decision of the Small Cause Court. We have practically devised an amendment which would nullify the effect of the decision of the Small Cause Court Judge, which is certainly against the spirit, if not also against the letter, of the existing law."

The Hon'ble MR. BAKER said:—"I support this amendment, Sir, and I think the Corporation and the Council are indebted to the Hon'ble Mover of the amendment for having brought this matter to our notice. But for his amendment we should have perpetuated the extreme inconvenience which has been caused by the decision of the Small Cause Court in the case to which he has alluded. The amendment in its present form simply gives effect to what the original intention of the law was, and also to the practice of the Corporation in the past; and I think it may safely be commended to the acceptance of the Council."

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I want to say one word in support of it. The Corporation think, and many others think, that the Small Cause Court made a mistake, and, probably, if the High Court had jurisdiction in the matter, the decision would have been reversed. It is an exceedingly difficult matter, and it is as well that it should be settled finally in the way it is proposed to be settled. The Hon'ble Mr. Baker suggested that the best thing to be done would be to fix the dates in respect of each ward. I think that the Hon'ble Mr. Baker obtained his details from the office of the Corporation, and it seems to me that the amendment, including the details, is a satisfactory settlement of a difficult and intricate problem."

The motions were then put and agreed to.

The last motions having been carried, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name that in section 148B (*now* 152), sub-section (*1*), for the words "the period for which they were so made" be substituted "two years for the commencement of this Act."

SECTIONS 230, 231 AND 232.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved—

(*1*) that for clause (*a*) of section 220T (*now* 230), the following clauses be substituted, namely:—

"(*a*) pay the sum demanded, together with any fee imposed under section 220C (*now* 214), sub-section (*2*), or

(*b*) send a letter to the Chairman, enclosing the sum demanded, and electing to be prosecuted under section 606 (*now* 578), or";

(*2*) that the present clause (*b*) of section 220T (*now* 230) be lettered "(*c*);"

(*3*) that in sub-section (*1*) of section 220U (*now* 231), "clause (*b*)" be substituted for "clause (*a*)," and that the following be inserted after "mentioned," namely:—

"and the sum deposited under that clause shall be deducted from the amount of any fine imposed under section 606."

(*4*) that in sub-section (*2*) of section 220U (*now* 231) "clause (*c*)" be substituted for "clause (*b*);"

(*5*) that in section 220V (*now* 232), line 3, for the word "either" the word "any" be substituted, and that the words "and has not paid the whole amount of the demand" be omitted.

He said:—"It is unnecessary to trouble the Council at any length on this matter. It was very fully discussed on a previous occasion, and my object in placing these amendments before the Council is simply to give effect to what I take to be the law on the subject. It is quite clear from section 220V (*now* 232) that there is a third alternative to the two mentioned in section 220T (*now* 230), and my first amendment gives effect to that view. Then the next amendment gives effect to my contention that, if under clause (*a*) any defaulter has deposited the sum required and is then prosecuted, the sum deposited is to be set off against any fine which may be imposed under section 606 (*now* 578). I further propose that in sub-section (*1*) of section 220U (*now* 231) 'clause (*b*)' be substituted for 'clause (*a*),' and that the following words be inserted after 'mentioned,' namely, 'and the sum deposited under that clause shall be deducted from the amount of any fine imposed under section 606 (*now* 578).' It will also be noticed on reference to section 606 (*now* 578) that the second sub-section of that section says that 'such fine when levied shall be taken in full satisfaction of the demand on account of such license.' I pointed out to the Council on the last occasion that it cannot possibly have been intended that the man should be fined, and that in addition the sum which he had deposited should be confiscated. The other amendments are simply consequential, and do not require any explanation."

The Hon'ble MR. BAKER said:—"I support the amendments, Sir. They are merely intended to give effect to what the law is as it stands in the Bill, and they express that intention more clearly than the original draft."

The motions were then put severally and agreed to.

The last motions having been carried, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

(1) that in section 220T (*now* 230), clause (*a*), the words "and enclosing the sum demanded" be omitted;

(2) that in section 220T (*now* 230), clause (*b*), after the word "and" be inserted "after depositing the amount demanded;"

(3) that to section 220T (*now* 230) the following be added, namely:—

"(*c*) or pay the sum demanded, together with any costs incurred under section 220O (*now* 214)."

[*Dr. Asutosh Mukhopadhyaya.*]

SECTION 253.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that the following further proviso be added to section 252 (*now* 253), namely:—

"Provided also that, if any building in respect of which any notice is issued under this section is occupied by a person other than the owner, the occupier shall be bound to make to the owner, in respect of all works executed in pursuance of such notice, the payments prescribed by clause (*a*) or clauses (*a*) and (*b*), as the case may be, of section 247 (*now* 250); and such payments may be enforced in the manner prescribed by section 249 (*now* 252)."

He said:—"The object of this proviso is to bring section 252 (*now* 253) into harmony with section 247 (*now* 250). It will be noticed that section 247 (*now* 250) authorises the occupier of any masonry building who holds the same direct from the owner to call upon the owner to provide for the supply of water. But it also provides that he can get the water supply only on certain terms. Those terms are defined in sub-section (2) of the section; the first of them is that the occupier shall pay during the residue of his term of occupation interest at the rate of one *per cent. per mensem*, calculated from the date of the completion of the works, on the cost of all works so provided by such owner. The second is that, if the premises do not abut upon some street in which there is a supply main, the occupier shall pay the cost of connecting the premises with the nearest supply main. It seems to me that these conditions are based upon a very just and equitable principle. Suppose a tenant takes the lease of a house on Rs. 20 a month [illegible] a time when there is no water-connection. He wants to have the [illegible] of the supply of filtered water. The law says that he is entitled to call [illegible] owner to incur the necessary expenditure, but at the same time the law [illegible] that he must pay for the benefit, and that is only reasonable, because this supply of water was not one of the terms of the original contract; what he has to pay, therefore, is interest at the rate of one *per cent. per mensem* upon the expense incurred by the owner. Now section 252 (*now* 253) deals with cases in which not the [illegible]ier but the Chairman compels the owner to have the necessary connection [illegible]ade. My contention on the last occasion was that sections 247 and 252 (*now* 250 and 253) ought to be mutually exclusive, that is to say, that the provisions of section 252 (*now* 253) need not be made applicable to the cases in which there is a tenant who might proceed under section 247 (*now* 250). I then relied mainly upon the ground that it would not be necessary in such a case for the Chairman to interfere, in order to enable the tenant to get

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Bolton; Mr. Buckley.*]

the benefit at the expense of the owner. But the Council decided otherwise, and I loyally accept that decision. I accept that decision with regard to section 252 (*now* 253) in the case where the building is not in the occupation of the owner himself; but it follows logically that, if the premises are in the occupation of a tenant, he ought not to get an unfair advantage which he is not entitled to get under section 247 (*now* 250): that is to say, if the tenant is in occupation, whether the connection with the water-works is made at his instance or at the instance of the Chairman, the tenant ought to pay for it; and I submit that that is both good sense and good law."

The Hon'ble MR. BAKER said:—"I think there is some practical advantage in this amendment. If section 252 (*now* 253) were to be left as it stands, and if, in a case where the Chairman causes the connection to be made on his own motion, no pecuniary liability devolved upon the tenant, I think it is probable that acute tenants would succeed in inducing the municipal officers to suggest to the Chairman that a connection ought to be made; and, by doing that, they would ensure the connection being made, and at the same time they would avoid paying their fair share of the expense to which they should have been liable had they themselves taken action under section 247 (*now* 250). Therefore, I think, whether action is taken under section 247 (*now* 250) or under section 252 (*now* 253), it is desirable that the tenants in either case should be liable for the same payment. That is the effect of this amendment."

The Hon'ble MR. BOLTON said:—"I am afraid I cannot support this amendment, because it might lead in many cases to no action being taken by the Chairman where he would otherwise have taken action. It seems to me that, with such a proviso, the occupier, who may be less able to meet the cost of the connection than the owner, will not press for it, however deniable it may be on sanitary grounds. This objection would be met if we added after the words 'the occupier shall be bound' the words 'if the Chairman so directs.' The Chairman could then discriminate between cases in which the occupier or the owner should pay."

The Hon'ble MR. BUCKLEY said:—"I do not believe, Sir, that this section will be used once in five years, and I do not think it at all an important matter."

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Oldham.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I would just point out that the difficulty to which the Hon'ble the Chief Secretary alludes can hardly arise, because we have already added a proviso to the effect that the Chairman cannot take action until he is satisfied that the porson who is called upon to carry out the necessary works has the means to do so."

The Hon'ble MR. BAKER said:—"I think the Hon'ble the Chief Secretary's recommendation is a good one, and that it would meet cases in which it it is desirable on sanitary grounds to have recourso to this section. Such cases may possibly arise, and I think we would do well to accept that slight modification."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"My contention is that the occupier ought to be ordinarily liable, and that only in exceptional cases he ought to be let off."

The Hon'ble MR. OLDHAM said:—"I confess that I am unable to give an intelligent vote on this subject, which is an extremely intricate one, if this amendment is to be made now. I think it would be well to postpone the matter until wo know the wording upon which we aro to vote."

The motion was then put in the amended form and agreed to.

SECTION 283.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that, after proviso (*b*) to sub-section (*1*) of section 265C [now proviso (*ii*) to sub-section (*1*) of section 283], the following be inserted, namely:—

"(*c*) if, when the Chairman demands payment of any expenses under section 627 (*now* 602), his right to demand the same, or the amount of the demand, is disputed, the power to cut off or turn off water to secure payment of such expenses shall not be exercised unless and until the demand or part thereof is upheld on a reference made to a Court under section 639 (*now* 616)."

He said:—"It will be in the recollection of the Council that in section 265C (*now* 283), sub-section (*1*), clause (*c*), is incorporated a provision of a very stringent character. It empowers the Chairman to cut off the connection between any water-works of the Corporation and any premises if in the case of a *bustee* the owner, or in any other case the occupier, of the premises fails for fifteen days after the due presentation of a bill or the due service of a notice to pay any sum due to the Corporation from him or in respect of such

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

premises. I pointed out to the Council on the last occasion that under section 639 (*now* 616) there might be a dispute as to whether the sum was due at all or not. That section provides that 'if, when the Chairman demands payment of any expenses under section 627 (*now* 602), his right to demand the same or the amount of the demand is disputed, the Chairman shall refer the case for the determination of the Court of Small Causes, or, if the amount involved exceeds Rs. 2,000, to the High Court.' I pointed out that it could not have been intended that, pending the hearing of a case either in the Small Cause Court or the High Court, the Chairman should proceed under this section. The Hon'ble Member in charge of the Bill agreed in this view of the matter, and I trust that there will be no opposition to this extremely moderate measure of relief."

The Hon'ble MR. BAKER said:—"I agree with the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I thankfully recognise the small instalment of a much larger concession which ought to have been granted in connection with this matter. On the last occasion when I called the attention of the Council to this proviso, I tried to impress upon the Council that the enactment of a provision like this was likely to entail upon the poorer classes of the ratepayers very great hardship. Unfortunately my hon'ble friend in charge of the Bill was unable to accede to my wishes, but I am now thankful that he has accepted the amendment proposed by the Hon'ble Dr. Asutosh Mukhopadhyaya."

The motion was then put and agreed to.

SECTIONS 325, 574 AND 575.

The Hon'ble MR. BAKER moved—

(*1*) that the word "water-course" be inserted after the word "tank" in line 8 of sub-section (*1*) of section 311A (*now* 325), and that the words "or water-course" be inserted after the word "tank" in line 4 of sub-section (*2*) of the same section;

(*2*) that the word "water-course" be inserted after the word "tank" in column 2 of the entries relating to section 311A (*now* 325) in the tables annexed to sections 602 and 603 (*now* 574 and 575).

[*Mr. Baker; Babu Surendranath Banerjee.*]

He said:—"With your permission, Sir, I will take these two amendments together. They both relate to the same matter, and are really consequential. It will be remembered that yesterday, at the instance of the Hon'ble Babu Surendranath Banerjee, the word 'water-course' was inserted in section 311A (*now* 325) in order to meet the case of Tolly's Nala. That being so, we must also insert the word 'water-course' in the eighth line of sub-section (*1*) of section 311A (*now* 325), and also in the penalty clauses of sections 602 and 603 (*now* 574 and 575)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to support the amendments."

The motions were put together and agreed to.

SECTION 370A.

The debate on the motion by the Hon'ble BABU SURENDRANATH BANERJEE and the Hon'ble MR. APCAR that section 370A be omitted was resumed.

The Hon'ble Mr. BAKER said:—"Yesterday the learned Legal Remembrancer made the suggestion that in clause (*a*) of this section (370A), in place of the first words of that section which are as follows, 'to confer and impose mutual rights and obligations upon owners,' &c., the following words should be substituted: 'to define and determine the mutual rights and obligations of owners,' &c. The effect of that is considerably to restrict the power of the Local Government in making rules to deal with this vexed question of party walls. Instead of conferring and imposing rights, the Local Government will have only to define and determine the mutual rights and obligations of owners, by which I understand rights that already exist either by some statute or by custom, or by the operation of any law. Well, Sir, I have thought over this matter, and I had the advantage of receiving the detailed opinion of the Hon'ble Mr. Handley, and I have also consulted the Chairman of the Corporation. I think there is a certain amount of risk in accepting this modification, because if we limit the power of the Local Government to merely defining and determining what the existing rights are, then, as this matter is one of real difficulty and intricacy in this country, it will probably be open to the Courts and to acute lawyers to argue that the rules which the Local Government make are *ultra vires*, because they may possibly go slightly beyond the defining and determining of rights, and might also do something in the way of creating

now rights. Therefore, I think there is a certain risk. But, after carefully considering the matter with Mr. Bright, we both came to the conclusion that it was better to take that risk, because all this is a matter of novelty in this country, at all events in Calcutta; and it looks rather an extreme power to confer upon the Local Government (not by legislation, but by mere power of making rules) to authorise them to confer or create new rights. Therefore, in deference to the views put forward yesterday by the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Apcar, the Council will, I think, do well to accept the amendment proposed by the learned Legal Remembrancer."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My difficulty in connection with this matter is not over even after the explanation given by the Hon'ble Member in charge of the Bill. I am afraid this difficulty is somewhat aggravated by the explanation. If the Local Government 'define and determine,' it seems to me that that is a matter of supererogation on the part of the Local Government. It is the function of the Courts to define and determine. I did not know it was the function of the Government to define and determine. Then, Sir, I have a further difficulty. If you empower the Local Government to define and determine, if you leave it open to acute lawyers to argue that you have been defining and determining beyond the rights and obligations accorded to you by statute, it seems to me, Sir, that, in trying to get over our present difficulties, we are likely to be landed in further difficulties. I suggest that the simplest and the safest course is to omit the section altogether, and keep things as they are. We shall, I am afraid, be placing ourselves in a difficult, and it may be in a false, position. Then, Sir, I do not consider this section is wanted; nobody wants it so far as I know, except perhaps my hon'ble friend Mr. Buckley, who I believe is very anxious that it should be inserted in the Bill. I have, Sir, great sympathy with the Hon'ble Mr. Buckley's motives, but sometimes even legislators with the best of motives make mistakes, and it does seem to me, with all the respect I feel for the Hon'ble Member, that it would be a mistake to have this section in the Bill in any shape or form, and it would be the greatest mistake of all to have it in the form now proposed by the Hon'ble the Legal Remembrancer."

The Hon'ble MR. BUCKLEY said:—"I am not quite certain, Sir, whether I have fully understood the exact meaning of the words the Hon'ble Mr. Baker

[*Mr. Buckley; Mr. Oldham; Mr. Baker; Mr. Apcar.*]

suggests should be now put into this section. It seems to me that, if I do understand them, they entirely destroy the whole benefit which would otherwise be derived from the establishment of these rules. It seems to me that the effect of the wording which is now proposed would be to prevent the beneficial effect which these rules are intended to have in connection with the construction of party walls. The main thing in connection with the proposal is that a man should have a right to build a party wall partly on his own and partly on his neighbour's land. That is the essence of the whole business, and the arrangements we have to make must be such as will give either party a right, with a view to the mutual advantage of both, to utilize a portion of his neighbour's and give up a portion of his own land. Now, if you are only going to define and determine the existing rights, you define and determine a line, a line upon which neither party can build. I really do not understand what benefit will be derived from that. I do not of course pretend to be a lawyer, but to my mind the proposal takes away the gist of the whole matter."

The Hon'ble Mr. Oldham said:—"I am exactly in the same position as my hon'ble friend who has just sat down, and I am in full agreement with the first part of the remarks of the Hon'ble Babu Surendranath Banerjee. Now I will give you a concrete instance. We are going to extend the Stamps and Stationery Office. It is a very large office now, and we going to extend it still further. We want to use a party wall between the office and Messrs. Ahmuty and Company's building. I do not see how the power of the Government to define and determine the rights of the parties in this connection will help us in any way. What we want to have is a wall of our own and to be able to utilise a part of their land for the purpose."

The Hon'ble Mr. Baker, in reply, said:—"I will just add one word. Of course it is understood that under section 596 (*now* 568) all rules framed under the section can only be made subject to their previous publication, so that everyone whose rights are in the least likely to be affected under these rules will have ample opportunity of considering them, and giving his opinion upon them before they come into force."

The Hon'ble Mr. Apcar said:—"The Hon'ble Mr. Buckley's intention I understand to be to have rules which shall come into operation in connection with buildings to be erected in future. My view about this particular

[*Mr. Apcar; Mr. Handley; Mr. Oldham; Mr. Buckley.*]

section is this, that it gives power to the Executive Government to create rights with reference to buildings that are now in existence, with regard to which rights and obligations already exist, and by rules to interfere with the rights and obligations of parties. If there are to be rules to be made at the discretion of the Executive Government, let them be made to affect only buildings that are to come into existence in the future. But what I object to is, that power should be given to the Local Government to make rules which shall interfere with the rights of private individuals. If you create rights on one side, you may take away rights from another, so that there would be a serious interference regarding the rights of individuals."

THE Hon'ble MR. HANDLEY said:—"Sir, I should like to say a few words upon this amendment, because I do not think my hon'ble friend Mr. Buckley has quite understood the legal difficulty that I pointed out. First, I understood the Hon'ble Member to say that in the case of a party wall the man can build on the land of his neighbour without his permission. Well, I do not know that there is any law under which you can do that at present. I am not aware of any. If the two neighbours mutually agree, the general rule is that the party wall is built up to the boundary land on either side. The only thing is that by mutual agreement *A* might pay half the share and *B* the other half, but I do not understand that if *A* chooses forcibly to build the party wall that he could encroach upon *B's* land without his permission, and I do not know that any rules that would be passed under this Act could authorise such a proceeding. Take the case which the Hon'ble Mr. Oldham referred to in which the Government want to extend the Stamps and Stationery Office. Does the Hon'ble Member mean to say that the Government would take hold violently of the land of their next door neighbour and build a party wall?"

The Hon'ble MR. OLDHAM said:—"We could build a thinner wall without encroaching upon their land."

The Hon'ble MR. HANDLEY said:—"Of course, so long as you choose to keep it within your own boundary, you can do what you like."

The Hon'ble MR. BUCKLEY said:—"If you do that, you must have two walls."

[*Mr. Handley; Dr. Asutosh Mukhopadhyaya; Mr. Oldham; Babu Boikanta Nath Sen.*]

The Hon'ble MR. HANDLEY said:—"The only thing is that it seems to me to make it less difficult than it was before these words were inserted. The words before were 'confer rights and impose obligations'. These words might interfere with the rights of private individuals, whereas if you define and determine you will have to proceed to a certain extent on case law, statute, custom, or whatever law exists, and you will endeavour to keep as far as you can within the law until you have a decision. After all, this matter will chiefly depend on the decision of the Courts. I venture to submit that the wording I have suggested is less likely to get you into trouble than the other one. Conferring of rights and obligations is a power which may be questioned at any time as being *ultra vires*."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"It seems to me that if we accept the section as amended we shall land ourselves in a hopeless difficulty. Let us examine the section closely. The section says that 'the Local Government may make rules to define and determine mutual rights and obligations of owners,' &c. To be defined and determined by whom? To be defined and determined by the Courts in accordance with the common law? Does it mean that these rules will create new rights or that they will simply declare rights which are already in existence? If you have rules to define and determine rights, you may even be understood to refer to rules of procedure by which the process of definition and determination is to be carried out by the Courts of Justice."

The Hon'ble MR. OLDHAM said:—"May I ask my hon'ble friend the Legal Remembrancer if it would be *ultra vires* for the Government to take the power to lay down the conditions upon which party walls could be built? That would partly meet the Hon'ble Mr. Apcar's objection."

The Hon'ble MR. HANDLEY said:—"That is what this amendment is intended to convey."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I understand that these rules are to be enacted for the guidance of the parties interested and for the guidance of Courts of Justice in cases where the matter or subject in dispute is brought up for legal adjudication. I believe that is the object. Now, in accepting this

[*Babu Boikanta Nath Sen; Babu Jatra Mohan Sen; Mr. Buckley.*]

section with the modifications proposed, I believe the Legislature will be encroaching upon the rights of the Judicature. It is impossible to conceive the equitable considerations on which these questions will have to be decided. Regard will have to be paid to the circumstances of each case, circumstances attending every particular building and things of that sort, which cannot be conceived beforehand. The elasticity of the Judicature in applying the principles of equity will be restricted if certain fixed rules be enacted by the Local Government, and I venture to submit that it will be very unwise to permit any such rules to be enacted, and it would be judicious to abandon this section altogether."

The Hon'ble BABU JATRA MOHAN SEN said:—"Even after the amendment proposed by the Hon'ble the Legal Remembrancer, I stick to my opinion expressed the other day. The object of this section will not only be to frame rules to define and determine the rights and obligations of parties, but I understand, from the explanation given, that they will have to be sought for from decided cases and from decisions of English Courts. These rights can only be defined by case law, I understand. If that be so, I do not see why we should define these rights (which are very complicated matters, and which have to be decided with regard to the circumstances of each case) by rules framed by the Executive Government. If it is desirable that any law is passed on this subject, I think the best means would be to gather the case law together and formulate these rules in the form of a Bill, which could then be properly discussed and passed into law hereafter. That cannot be done now, and this section, I am afraid, will have to be abandoned. In fact, an enactment of this kind is not rightly introduced into a Municipal Bill. It is a separate matter altogether, and therefore I think it is much better to abandon this section and to legislate hereafter in case of need."

The Hon'ble MR. BUCKLEY said:—"May I be allowed to explain to the Hon'ble Member who has just sat down that he is under a misapprehension. The rules in England are not a matter of case law, but they are clearly defined in the London Building Act, sections 87 to 101. That Act deals with all questions of party walls, and I may say that the chief of the regulations is that power is given to certain people to appoint arbitrators whose duty it is to deal justly with the rights of the various people. One of the rules has reference to

[*Mr. Buckley; Babu Surendranath Banerjee; Babu Jatra Mohan Sen; Mr. Baker.*]

what is called 'under-pinning,' that is to say, a man has got a house and the man next to him wishes to build another house, as I understand the Hon'ble Mr. Oldham wishes to do in the case of the Stamps and Stationery Office. Now, the law we are going to pass here says that if you build a house you must do one of two things—you must either build it in actual contact with the next house, or six feet or eight feet away from it. Now, if you are going to build it in direct contact with the next house, you must put your foundation under the other house, or you cannot get the walls together."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If you had plenty of space it would not be necessary."

The Hon'ble Mr. BUCKLEY said:—"I said, if you are going to build in direct contact, you must support your wall by putting your foundation under the other wall. The object of this section is to enable Government to make rules to grant certain rights to the parties, so that a party wall may be built to suit them both. If it is not possible legally to do what is proposed by the section as it now stands,—and I do not pretend to have a legal opinion,—then it will be impossible to carry out the theory underlying the question of the party wall."

The Hon'ble BABU JATRA MOHAN SEN said:—"May I ask if the rules are framed under the Act itself? If these rules are defined by the Act, I desire that they should be so defined by an Act here also."

The Hon'ble MR. BAKER said:—"I would suggest, Sir, that this matter be allowed to stand over till Monday, and in the meantime I will endeavour to consider it further with my hon'ble friends Mr. Buckley, Mr. Oldham, the Legal Remembrancer, and one or two of the other gentlemen, if they are willing to assist us. My own feeling is that the wording of the section as it stands in the draft is best, and I accordingly prefer that to the wording proposed by the Hon'ble the Legal Remembrancer, because I feel with Mr. Buckley that the words 'define and determine' will not really help us."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I entirely agree with my hon'ble friend in his last remark, that is to say, I certainly think that the

words 'define and determine' will not help us at all. As there appears to be such difficulty in framing a section which will meet the case, it will be far better to abandon the proposal altogether."

The Hon'ble MR. BAKER said :—"I cannot agree with the Hon'ble Member's last remark, and I may mention with reference to what has fallen from the Hon'ble Mr. Apcar that we are not going to deal with existing buildings. The section merely gives power to lay down rules with reference to the erection, maintenance, &c., of party walls in future. Now, there are hardly any party walls in Calcutta at the present time in the strict sense of the word; the only case likely to arise in respect of existing buildings is where there are two adjacent houses which the owners want to bring close together with one party wall between them. Now, in a case like that, the party wall would be new and the building would be old, and the rules would apply to the party wall only. That is probably the only kind of case that would come under the operation of the rules in connection with old buildings. If Your Honour is willing, I think, under all the circumstances, it would be well to let the matter stand over until the 25th instant."

The further consideration of the motions was postponed till the next meeting of the Council.

SECTIONS 373, 374 AND 386.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the President, moved—

(*1*) that the following proviso be added to section 383 (*now* 373), namely :—

"Provided that the making of such order shall not in any case be delayed for more than thirty days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application ;"

(*2*) that the following further proviso be added to section 384 (*now* 374), namely:—

"Provided also that the making of such order shall not in any case be delayed for more than thirty days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application ;" and

(*3*) that the following proviso be added to section 400 (*now* 386), namely:—

"Provided that the making of such order shall not in any case be delayed for more than fourteen days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application."

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

He said:—"Sir, I explained at length yesterday the grounds on which I wanted to fix a limit of time after the Chairman has received all the necessary information with regard to applications for a site for a building and the plan of the building. I wanted that there should be a definite limit of time within which the Chairman should communicate his approval or disapproval, and I ventured to suggest thirty days as the limit of time within which after he has received all the information he has to communicate his approval or disapproval. My hon'ble friend in charge of the Bill was good enough to accept the recommendation, and I hope the Council will accept it. The first part has reference to the site. The second amendment to section 384 (*now* 374) is consequential."

The Hon'ble MR. BAKER said:—"I have consulted the Chairman of the Corporation in this matter, and we consider that these amendments are reasonable and should be accepted."

The motions were put together and agreed to.

The last motions having been carried, the Hon'ble Babu Surendranath Banerjee, by leave of the Council, withdrew the following motions standing in his name:—

(*1*) that the words "or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site" in lines 4, 5, 6 and 7 of section 383 (*now* 373), be omitted; and

(*2*) that the words "or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work," in lines 5, 6, 7, 8 and 9 of section 384 (*now* 374), be omitted.

SECTION 407.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 426 (*now* 407), line 3, after "thereto" be inserted "after hearing the objections of the owner (if any) and," and that the word "therein" in line 4 be omitted.

He said:—"This amendment, Sir, is a very small matter, so small as not to deserve the opposition of the Hon'ble Member in charge of the Bill. Section 425 (*now* 406) refers to the inspection of bustees by medical officers and the submission of reports and plans for improvement. Section 426 (*now* 407) lays down that 'the General Committee shall, within six months after the receipt of such report, approve the standard plan annexed thereto, after

making such modifications (if any) therein as they may deem proper.' My suggestion is that before the General Committee make any order under section 426 (*now* 407), they should give the owner an opportunity of being heard. The section, if amended according to my suggestion, would read as follows:—

'The General Committee shall, within six months after the receipt of such report, approve the standard plan annexed thereto after hearing the objections of the owner (if any) and after making such modifications (if any) as they may deem proper.' "

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I just want to point out that this is the existing practice, although I do not suppose such a provision is to be found in the existing law. The Bustee Committee always make it a point, when orders of this kind are issued, to send notices to the parties whose properties are concerned, and they appear sometimes by counsel. Elaborate objections are sometimes urged, and the whole matter is enquired into. It is the practice at present, and I hope my hon'ble friend will embody it."

The Hon'ble MR. BAKER said:—"I have not the slightest objection."

The motion was then put and agreed to.

NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion standing in his name that the following section be inserted after section 428 (*now* 409):—

'428A. An appeal shall lie to the Corporation against any orders passed by the General Committee under section 426 (*now* 407), section 427 (*now* 408) or section 428 (*now* 409).'

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following section be inserted:—

'428A. An appeal shall lie to the Corporation against any orders passed by the General Committee under section 420 (*now* 401) or section 428 (*now* 409).'

He said:—"The General Committee in the first instance causes the bustee to be inspected by two officers; then these officers submit a report and a standard plan; then under section 426 (*now* 406) the standard plan has to be approved by the General Committee; then according to section 427 (*now* 408) the General Committee may cause a written notice to be served upon the owner or occupier of the huts to carry out the improvements proposed in the report. Then further

[*Babu Surendranath Banerjee; Mr. Baker.*]

the General Committee are empowered under section 428 (*now* 409) to carry out the improvement in default of the owners or occupiers. Sir, I do not want to interfere with the work while the General Committee are engaged upon it. I want to give the General Committee full powers to carry on the work without any sort of interference on the part of anybody, and then provide an appeal to the Corporation. Sir, the discretion of the General Committee or the executive vigour and energy of the General Committee are not in any way to be interfered with by my amendment as now modified. The General Committee have to appoint the inspecting officers; they are to issue orders; they are to call upon parties to execute orders; if the parties fail to execute the orders the General Committee have to do the work themselves. In this inspection and all other matters they are entirely independent, and I do not in the slightest degree seek to interfere with their discretion or with the execution of the work which the General Committee want to carry out. But, Sir, as I said yesterday, as this is a matter which means some little interference with private parties and with private rights, it is as well to provide an appeal to the Corporation. There may be cases in which individuals may have grievances, and it is right and proper that an opportunity should be given to individuals to appeal to a higher authority. Therefore, I venture to suggest the amendment which I have somewhat modified from what I originally proposed. I trust my hon'ble friend will see his way to accept the amendment. It does not interfere with the work of the General Committee; it does not interfere with the execution of the orders of the General Committee. After these orders have been carried out either by the parties or by the General Committee, then it shall be open to the individual to prefer an appeal to the Corporation if he thinks fit."

The Hon'ble MR. BAKER said:—"The modification which the Hon'ble Member has made in the terms of his amendment makes practically no difference in the effect of it. The effect will be that an appeal will lie to the Corporation against the action or proceedings of the General Committee in carrying out orders under this section. Now, the whole object of this procedure is to effect improvements in unhealthy *bustees*. The appeal will lie at the very moment the General Committee step in to carry out the work. Sir, the modifications which the Hon'ble Member has made in his amendment make no difference whatever. The effect is just the same as if sections 425, 426 and 427 (*now* 406, 407 and 408) had been left in the amendment. I strongly object to any appeal being allowed

to the Corporation under any circumstances. The Corporation is entirely unfitted for hearing appeals. Appeals that come to the Corporation are very seldom decided with exclusive reference to their own merits. This difficulty is not peculiar to the Calcutta Corporation, but is inherent in all large public bodies all over the world. Responsibility is so sub-divided that no ordinary member of a large body can be expected to feel the same interest, or to take the same pains in deciding the matter, as if he had to decide it alone or as if it had to be decided by a small tribunal of which he was an important part. When an appeal goes to the Corporation, I do not believe that three-fourths of the Commissioners take the trouble to make themselves acquainted with the facts beforehand. They regard the matter as if they were spectators rather than participators. The only Commissioners who do make themselves acquainted with the facts in advance are those with whom the appellant or his opponents have made some interest, and they approach the question as advocates, and not as independent judges. Consequently an appeal to the Corporation becomes a matter of advocacy, not of judgment, and, though I should be very far from saying that appeals in the past have been always decided wrongly, I do say that the merits of the appeals have not been the primary and exclusive grounds on which decisions have been arrived at. Therefore, I think that the Council should not consent to give the power of an appeal to the Corporation against the orders of the General Committee."

The Hon'ble MR. BUCKLEY said:—"My hon'ble friend Mr. Baker has said the Corporation is not a body to which appeals should be referred. I should like to explain to the Council what the procedure would be in London with reference to such appeals as far as the circumstances are parallel. What I shall say has reference to the wish of the Hon'ble Babu Surendranath Banerjee that appeals in the matter of *bustees* shall lie to the Corporation. Under the London Building Act there is an officer appointed under section 136 called Superintending Architect, who is a servant of the London County Council and has various duties to perform. One of these duties is the fixing of a line called the general building line. This matter is very much akin to this question of the improvement of roads and *bustees*. That officer lays down this line, and determines, in the first instance, any practical questions or difficulties which may arise. His orders are subject to appeal, and the appeal lies to what is called the Tribunal of Appeal. It does not lie to the General

[*Mr. Buckley; Mr. Oldham; Babu Surendranath Banerjee.*]

Committee as it lies here, nor does it lie to the County Council which corresponds to the Corporation, but it lies to what is called the Tribunal of Appeal. The constitution of the Tribunal of Appeal is interesting. It is as follows in section 175 of the London Building Act:—

'For the purposes of this Act a Tribunal of Appeal shall be constituted as follows:—
one member shall be appointed by the Secretary of State;
one member shall be appointed by the Council of the Royal Institute of British Architects;
one member shall be appointed by the Council of the Surveyor's Institute.

No member or officer of the Council shall be a member of the Tribunal of Appeal.'

That is to say, in London they have actually decided that such questions shall be referred to a tribunal on which no member of the County Council has a seat at all. These questions are regarded as questions to be decided by practical men, and not as questions which are fit subjects for appeals to large representative bodies."

The Hon'ble MR. OLDHAM said:—"This is a matter of *bustee* improvement, and yesterday I had occasion to refer to the question of *bustee* reclamation. I ought to have explained that, so far as my information goes, it appears that the *bustee* reclamations and improvements which have been carried out in the past have been effected by a small Committee of the Corporation. I do not know that they have ever been interfered with by the Corporation, and I think the place of that *Bustee* Committee will best be taken by the General Committee, as is provided for under this Bill. I do not think that any appeal to the Corporation is necessary or desirable."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Sir, I desire to address myself chiefly to the observations of my hon'ble friend Mr. Buckley, who has cited the precedent of the London County Council, and who has read an extract which says that in matters like these the appeals lie to a completely independent tribunal, and that on that tribunal not a single member of the London County Council has a seat. Sir, I am glad that that extract has been read, because it supports my case in a most unexpected manner. The London County Council and the London Building Act recognise that, in cases of this kind, an appeal is desirable, and that is all I am endeavouring to press upon the attention of the Council. Here the General Committee have to pass orders in connection with matters seriously interfering with the rights of property,

and no appeal is provided for. I suggest that an appeal be provided for; and to whom it should be preferred? I say it should be preferred to the Corporation. Therefore my friend's argument is directly in support of my contention. The extract states that on the Committee which has to hear appeals against the orders of this architect not a single member of the County Council has a seat. Now what is the General Committee? It is a Committee of the Corporation. Therefore, if the analogy holds good, the General Committee ought to have nothing to do with this matter. The General Committee are all members of the Corporation, and if my hon'ble friend maintains that the precedent of the London County Council is to be applicable to the case of the Calcutta Municipality, then I am entitled to hold that the General Committee ought to have nothing whatever to do with applications of this kind. But my hon'ble friend does not mean that at all. He wants to point out that in cases of this kind it is necessary to have an independent tribunal. Even in London, with the strong force of public opinion actively at work, a provision is made for appeals in cases of this description. Here, Sir, under an impotent public opinion, no provision is made for appeals in cases of this kind.

"I must express my surprise at the remarks that my hon'ble friend the member in charge of the Bill has made. My hon'ble friend says 'on no consideration can I consent to the Corporation being allowed the right of being appealed to in regard to these matters.' Well, Sir, my hon'ble friend's attitude in this connection reminds me of a celebrated chapter in Roman history, with which I am perfectly sure he is well acquainted. My hon'ble friend knows the words which Cato used frequently to recite to the Senate '*Carthago delenda est*,'—'Carthage must be destroyed,'—and my hon'ble friend never rises from his seat without exclaiming 'the Corporation must be humiliated; the authority of the Chairman must in everything be supreme.' I really do not think that the hon'ble gentleman who is in charge of a measure of local self-government should be animated by such feelings towards the Corporation. The Corporation is the embodiment of local self-government, and my hon'ble friend gave us the other day an assurance that there was no wish on the part of anybody to do anything to destroy or curtail the principle of local self-government in this city. He said he was only seeking a judicious re-arrangement of the principle of representation. A judicious re-arrangement of the principle of representation

according to my hon'ble friend means the absolute extinction of local self-government. I think, Sir, I am entitled to hold that opinion from the remarks which so frequently escape from the lips of my hon'ble friend. My hon'ble friend thinks this amendment deals with an immaterial point. Well then, why not please me if it is perfectly immaterial?"

The Hon'ble MR. BAKER said:—"I did not say it was immaterial. What I said was that the change you made in your amendment made no difference in the effect of it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I misunderstood you. I think it will make a very great difference. Under amendment as it is now modified there is no interference with the work of the General Committee in the earlier stages; but, when the General Committee has finished its work, there may be an appeal to the Corporation. Originally, there would be power of appeal when the General Committee have issued an order; there would be power of appeal when the General Committee propose to carry out the improvements. There would in fact be an appeal against every action of the General Committee at every stage. Now, I have modified my amendment to this extent that the power of appeal is confined to one point, *viz.*, that when the work is finished, if the person feels himself aggrieved, he may go to the Corporation and endeavour to obtain redress. Then, Sir, my friend has made a remark that the Corporation would be an extremely unsuitable body to deal with appeals. My hon'ble friend knows how the business is done in the Corporation. I think my hon'ble friend Mr. Oldham has reiterated the same sentiment to my surprise. I am astonished that Hon'ble Members display such ignorance of the work of the Corporation. The appeal would probably be dealt with by a Committee appointed by the Corporation, possibly the whole matter would be disposed of by the Committee. I think that having regard to the issues involved, having regard to the fact that these sections contemplate interference with private property, and having regard to the precedent quoted by my hon'ble friend Mr. Buckley, there should unquestionably be a power of appeal. If there is to be an appeal against the orders of the General Committee, I cannot think of any tribunal better fitted to be the appellate tribunal than the Corporation. As for the argument that the Corporation is unsuited to deal with appeals, my reply is that the Corporation will not deal with these appeals, but that they will generally

[*Babu Surendranath Banerjee; the President; Mr. Buckley.*]

appoint a Committee to hear them and to come to a decision upon the points raised. Therefore, it seems to me that it is only reasonable and just that this amendment should be accepted."

The Hon'ble THE PRESIDENT said:—"I should like to ask one question of the Hon'ble Mr. Buckley. Is the appeal to the Tribunal of Appeal in London from the orders of one man or from the orders of a Committee?"

The Hon'ble MR. BUCKLEY said:—"The particular case I quoted, Sir, deals with building line. The appeal is from the orders of one man. Section 25 of the Act says that any person deeming himself aggrieved by a certificate of the Superintending Architect may appeal to the Tribunal of Appeal."

The Hon'ble BABU SURENDRANATH BANERJEE said:—It is only in regard to the building line. Is there any analogy between the practice followed in England as regards this matter and the practice we are now introducing here. Is there any section similar to that we are now discussing?"

The Hon'ble MR. BUCKLEY said:—"I can hardly say there is anything similar to *bustees*, but the building line comes into the question. There are of course very many and very large insanitary areas in London."

The motion being put, the Council divided as follows:—

Ayes 5.	*Noes 12.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apcar.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

SECTION 413.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for the word "four" in line 3 of sub-section (*5*) of section 432 (*now* 413) the word "two" be substituted.

He said:—"If you will be good enough, Sir, to turn to section 425 (*now* 406), you will find that that section provides a procedure in cases where there has been 'dilatoriness,' that is to say, in order to expedite matters, the procedure laid down in section 425 (*now* 406) is followed."

The Hon'ble MR. BAKER said:—"I think I can shorten the matter by saying that I propose to accept this amendment."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to section 432 (*now* 413) the following be added:—

"(*6*) Whenever action is taken under sub-section (*4*), clause (*a*), the provisions of sub-sections (*2*) and (*4*), or sub-section (*3*), as the case may be, of section 416D (*now* 397), shall be applicable."

He said:—"The object of this amendment is to make section 432 (*now* 413) harmonious with section 416D (*now* 397). Section 416D, which deals with the case of general improvements, authorises the Corporation to acquire land for the purposes of such improvements, and subsequently to sell, lease or otherwise transfer to a competent person the land and buildings which have been thus acquired for the purpose and under the condition that he will carry out such work in accordance with an approved scheme.

"Section 432 (*now* 413) deals with bustee improvement and provides as follows:—

'(*1*) Notwithstanding anything contained in sections 426 to 431 (*now* 407 to 412), the General Committee may, after receipt of a report made under section 425 (*now* 406) with respect to any bustee, pass a resolution to the effect that the bustee is an unhealthy area, and that in their opinion the purchase or acquisition of the bustee, or of any portion thereof, is necessary for the purpose of making the requisite improvements therein.

(*2*) When any such resolution has been passed, the General Committee shall proceed to make a standard plan for the improvement of the said bustee or portion, and shall lay such plan before the Corporation, together with such estimates as may be necessary for a due understanding of the same and a copy of the said resolution.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee.*]

(*3*) If the plan be approved by the Corporation, they shall submit it to the Local Government, together with the said estimates and a copy of the said resolution; and, if the plan be approved by the Local Government, the General Committee may purchase or acquire the said bustee or portion.

(*4*) When the said bustee or portion has been so purchased or acquired, the General Committee shall either—

(*a*) sell or let the same or part thereof to some person for the purpose and under the condition that he will, as respects the land so sold or leased to him, carry out the improvements shown in such standard plan, or

(*b*) themselves bring the said bustee or portion, together with any part thereof which has not been sold or leased under clause (*a*), into conformity with such standard plan.

(*5*) The General Committee shall be bound to proceed as directed by sub-section (*4*) within a period of four years from the date of their purchasing or acquiring the said bustee or portion in pursuance of sub-section (*3*), or within such further period (if any) as the Local Government may prescribe.'

"It will be observed that the two sections are very similar in scope, and I suggest that they should be placed on the same footing in the matter of the acceptance of security from the transferee who undertakes to carry out the improvement."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

SECTION 420.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the appoval of the Corporation" be inserted after the word "may" in line 1 of sub-section (*1*) of section 449 (*now* 420), and that the words "the Corporation" be inserted before the words "may impose" in line 4 of the same sub-section.

He said:—"I will read the section with the words inserted according to the terms of my amendment:—

'(*1*) The General Committee may, with the sanction of the Corporation, sanction the employment of a special establishment for the cleansing of any bustee, and, when any such establishment has been sanctioned, the Corporation may impose on the owners of the bustee a rate to defray the cost of the establishment.

(*2*) Any rate so imposed shall be recoverable in the manner provided by this Act for the recovery of the consolidated rate.'

[*Babu Surendranath Banerjee; Mr. Baker.*]

"I may say, Sir, that my amendment is conceived in the terms of the existing law. If my hon'ble friend the Member in charge of the Bill would refer to section 269 of the present law, he will find that my amendment is in entire conformity with the terms of that section. Here is the question of imposing rates upon bustee-owners, and I think, Sir, in the matter of the imposition of rates the Corporation ought to be the authority. The Corporation has the power of the purse. That has been definitely conceded. The Corporation fixes the rates and it deals with financial considerations. Therefore, Sir, it is desirable that, so far at any rate as the imposition of the rate upon bustee-owners is concerned, the Corporation shall have the authority. If my hon'ble friend the Member in charge of the Bill agrees to that, I will withdraw the first part of my amendment. As far as the employment of the establishment is concerned, that is an executive matter, and the General Committee may have permission to do it; but I attach the utmost importance to the imposition of the rate. The rate is a thing which is imposed by the Corporation, and it would be in accordance with the principle, which is the principle of the Bill, that, so far as the imposition of the rate upon bustee-owners is concerned, the Corporation should have that power. And in this connection I may say that my views are supported by the high authority of the Corporation. My recommendation is upon the lines of the recommendation of the Bill Committee of the Corporation.

"Sir, throughout this debate I have been guided by the principle of compromise, whatever may be the attitude of the Hon'ble Member in charge of the Bill. I am prepared to allow the General Committee to make arrangements for the establishments. I do not want to interfere with that part of the Bill; but I do earnestly hope, Sir, that this Council will consent to accept that which I consider to be the most important part of the amendment, *viz.*, that the Corporation should have the power of imposing the rate upon the bustee-owners."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee says that he is dominated by the principle of compromise. If I may venture to say so without offence, his notion of compromise seems to be that eight annas of his total demand should be conceded in the Select Committee and the remaining eight annas in this Council. With reference to the specific amendment which he now proposes, if he is willing to withdraw the first part

of it, I shall be willing to concede the second part. It is rather unfortunate that was not expressly stated in the amendment, as it would have saved a certain amount of discussion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If I ask for a whole loaf, I will probably get half. I withdraw the first portion of my amendment 'with the sanction of the Corporation.'"

The second part of the amendment, namely, that the words "the Corporation" be inserted before the words "may impose" in line 4, was then put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to section 449 (*now* 420), sub-section (*1*), the following be added:—

"Provided that, without the consent of the owners, no such rate shall be imposed in respect of any remodelled bustee."

He said:—"It seems to me that this proviso, which is in the existing law, is very reasonable. If a bustee-owner has incurred expense under the foregoing sections of this Chapter and his bustee has been re-modelled, it is not fair that the should incur additional expense."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

SECTION 422.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the word "Chairman" in line 1 of sub-section (*1*) of section 453 (*now* 422).

He said:—"The section as amended will run as follows:—

'(*1*) The Chairman, with the sanction of the Corporation, shall—

(*a*) take measures for lighting in a suitable manner the public streets and municipal markets and all buildings vested in the Corporation;

(*b*) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for such lighting; and

(*c*) cause such lamps to be lighted by means of oil, gas and electricity or such other light as the Corporation may from time to time determine.'

[*Babu Surendranath Banerjee; Mr. Baker.*]

"The Hon'ble Member the other day observed, and observed with much justice, that in the matter of lighting the Ward Commissioners are accustomed to take a great deal of interest, and that it is desirable to make some concession to the interest which they evince in this matter. Well, in this amendment I carry out the suggestion of my hon'ble friend. Whenever, Sir,—and I speak from personal experience,—a street is to be lighted, an application is made by the rate-payers; that application is sent on to the office; the office sends it back to the Ward Commissioner for his opinion; and the opinion of the Ward Commissioner generally is given effect to. I think, Sir, in a small matter like this the approval of the Corporation would not in the smallest degree weaken the hands of the Chairman, but on the other hand will enable him to discharge his duty in this respect in a satisfactory manner, and I will tell you my reasons. We have got at the present moment one Lighting Inspector. That gentleman is supposed to inspect the lighting of the whole town. You can easily understand how efficiently this gentleman, having the whole of the town under his charge, is able to perform his duties. As a matter of fact he is merely an ornamental figure-head. I do not think he is able to perform his duties satisfactorily, and the Ward Commissioners render him valuable help. The Ward Commissioners in this matter represent an important adjunct to the municipal administration of the town, and, that being so, I am anxious to associate them with the Chairman in the discharge of his duties in this matter. I admit, Sir, that, so far as the sections relating to lighting are concerned, the power of supervision is given to the General Committee; but, Sir, in the new General Committee the representatives of the rate-payers will be in a minority, certainly not in a majority; and it is desirable therefore that the Corporation should have something to say with regard to this matter of the lighting, and that the Ward Commissioners should be allowed to be associated with the Chairman in the discharge of his duties."

The Hon'ble Mr. Baker said:—"In the Select Committee, section 458A (*now* 428), which places the Chairman under the control of the General Committee in matters connected with lighting, was inserted expressly in order to enable the Ward Commissioners to have some voice in lighting matters. There is not the slightest necessity to place the Chairman also under the general control of the Corporation."

[*Babu Surendranath Banerjee; Mr. Oldham.*]

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"This is an exceedingly small matter, and I thought my friend would see his way to give way. Section 458A (*now* 428) says:—

"The Chairman shall, in the performance and exercise of the duties and powers imposed and conferred on him by this Chapter, be subject to the control of the General Committee."

"The Ward Commissioners would not be under the General Committee, and then we have now got a very salutary provision which enables Ward Commissioners to move resolutions in the General Committee. Suppose a Ward Commissioner is not a member of the General Committee, and, if he has any good scheme, he is empowered according to the present practice to come before the General Committee, give notice of motion and move his Resolution whatever it may be. He has not got the right to vote. Therefore, under the present practice, which finds no place in this Bill, the Ward Commissioners can associate themselves with the General Committee; but under the Bill they have no place in the General Committee. The object of my amendment is to associate the Ward Commissioners with the Chairman."

The Hon'ble MR. OLDHAM said:—"My hon'ble friend Babu Surendranath Banerjee has adduced some fresh facts in his reply. There is nothing in the present law which provides for Ward Commissioners making motions before the General Committee. There is nothing in the Bill to prevent them doing so, and nothing has been done to alter the practice."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I certainly quite admit all that. The spirit of the present law is popular, but that of the Bill is official, if I may be permitted to say so; and I am certain a practice such as now prevails would be discarded. If the Ward Commissioners are allowed to be associated with the General Committee, good and well; but I am bound to say, having regard to the spirit of the Bill, that the Ward Commissioners probably will not be associated with the General Committee. If they are associated with the General Committee, we at any rate are not expressly providing for it in the law. Will the Hon'ble Member in charge of the Bill consent to make a provision to that effect? He will not consent, and therefore it seems to me that it is not likely, so far as I can judge, that the Ward Commissioners will be associated with the Chairman."

The motion was then put and lost.

[*Babu Surendranath Banerjee ; Mr. Baker.*]

SECTION 429.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that sub-section (*2*) of section 459A (*now* 429) be omitted, and moved instead that the following be substituted for sub-section (*2*) of section 459A (*now* 429), namely:—

"(*2*) Any land that may be required in a bustee for the temporary deposit or final disposal of rubbish, offensive matter, sewage or carcasses taken from buildings or lands in such bustee shall be provided by the owners of the bustee."

He said:—"With Your Honour's permission I would substitute a new motion in place of the one I have just withdrawn. Sub-section (*2*) of section 459A (*now* 429) reads:—

'(*2*) Any land that may be required in a bustee for the purposes of sub-section (*1*) shall be provided by the owners of the bustee.'

"I have placed myself in communication with the Hon'ble Member in charge of the Bill, and he has suggested a modification of my amendment, and I accept that modification. I will read the new section:—

'Any land that may be required in a bustee for the temporary deposit or final disposal of rubbish, offensive matter, sewage or carcasses taken from buildings or lands in such bustee shall be provided by the owners of the bustee.'

"The difference between the sub-section as it stands and the proposed amendment is this. The section is of a general character. Almost any refuse could be deposited on land belonging to the bustee-owner, but here the amendment proposes that refuse, carcasses and things of that kind taken from land or buildings in the bustee shall alone be deposited on land to be provided by the bustee-owner. This seems to me to be reasonable, and I have pleasure in accepting the modified amendment."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

SECTION 430.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for section 459B (*now* 430) the following be substituted:—

"The General Committee may cause any number of moveable or fixed dust-boxes or other convenient receptacles (wherein rubbish and offensive matter arising from the ordinary domestic use of houses may be temporarily deposited, until removed and carried away) to be

provided and placed in proper and convenient situations, and may require the occupiers of houses in public streets to cause all such matter as aforesaid to be deposited in such receptacles and between such hours as they may from time to time direct:

Provided that no occupier shall be required to deposit refuse in a dust-box at a greater distance than fifty yards from the entrance of his premises."

He said:—"This is practically a reproduction of section 298 of the existing law. The difference between the existing law and what is proposed in the Bill is this: the existing law makes provision for public dust-bins to be placed on public streets to which people may resort and in which they may put their refuse and other things. The Bill provides not only for public dust-bins but for private dust-bins to be placed at or near the entrance of houses. Sub-section (*1*) of section 459B provides—

'The Chairman may, by public notice, direct that all rubbish and offensive matter accumulating in any premises in any street or quarter of Calcutta specified in the notice shall be collected by the occupier of such premises and deposited in a box or basket, of a kind prescribed by the Chairman, to be provided by such occupier and kept at or near the entrance to the premises.'

"Therefore, Sir, here provision is made for occupiers providing themselves at their own expense with private dust-bins and dust-boxes. We considered this matter more than once at meetings of the General Committee. I do not know whether my hon'ble friend the Member in charge of the Bill remembers those occasions, but we considered this matter as to whether it would not be desirable to have private dust-bins for the use of occupiers of houses, and we thought that on the whole it would be as well not to make any provision to that effect. In this matter we are bound to respect Hindu feeling and sentiment. If you place a dust-bin at the entrance to the house of a Hindu or near the entrance to his house, and refuse is deposited there and the dust-bin is used by mehters and other low class people, it becomes a polluted thing. The inmates of the house will not approach it. They will not touch it, and it would be perfectly useless. Of course, I am free to admit that in Calcutta there are other communities besides the Hindu community; but, Sir, the Hindu community bulks very largely on the view; the Hindu community preponderate in numbers, if they do not preponderate in wealth or intelligence. Any municipal measure of this kind must be looked at from the point of view of the Hindu community; and I am bound to say, Sir, that if you insist upon providing private dust-bins to be placed at or near the entrance of houses inhabited by Hindus, they

will become objects of pollution, which will be abhorred by the Hindus. I am well aware of the fact that there is such a provision in the Bombay Act. I do not know how it has worked there, but that is the feeling in regard to this section in the mind of the Hindu community; and I think, Sir, it is desirable, when we are legislating in a matter like this, to respect that feeling. The dust-bin would be useless; the people would abhor and shun a thing of that kind; and it is for the Hon'ble Member in charge of the Bill to say whether, having regard to this state of feeling, it is desirable to legislate upon those lines so far as private dust-bins are concerned."

The Hon'ble MR. BAKER said:—"I have listened to the Hon'ble Member with the greatest surprise. This matter was most fully considered in the Select Committee. The provisions in the original Bill were entirely different from those in section 459B (*now* 430). The Select Committee invited Mr. Hughes and Dr. Cook, the Engineer and Health Officer of the Corporation, to attend their sittings and favour them with their views. Mr. Hughes recommended that the private dust-bin system should be introduced in Calcutta universally. He told us that in Paris, where many of the streets are very narrow, it was found possible to work that system; and he undertook to explain how it was carried into effect there. Dr. Cook on the other hand, who had had experience of this kind of work in Madras and elsewhere, said there were parts of Calcutta in which the private dust-bin system would be impossible; and then I remember telling the Select Committee that my own view was entirely in favour of what Dr. Cook had said, and that they would act unwisely in accepting Mr. Hughes' much more drastic proposals. I then brought forward the scheme which is embodied in this section, and this scheme, Sir, was accepted unanimously by the Select Committee, including the Hon'ble Babu Surendranath Banerjee himself and Babu Narendra Nath Sen. The only explanation I can imagine for the Hon'ble Member's opposition now is that he has not really understood what the effect of the system will be. What this section provides for is this. It provides for all three systems. In the first place, it provides for the private dust-bin system; secondly, it provides for the public dust-bin system; and, thirdly, it provides for the existing system under which rubbish is deposited on the road outside the doorway of each person's house; and it lays down that the Chairman may direct that each one of these three systems shall be applied in such streets or quarters as may be found desirable. I remember expressly explaining to the Select

Committee that the private dust-bin system was suitable for, and would be applied in, the European quarters, such as Chowringhee, Theatre Road, Park Street, and places like that. The public dust-bin system, which is the system authorised by the existing Act, would be suitable for the more open part of the native quarter—the northern part; while the extremely insanitary third system, by which rubbish is deposited on the road, would be continued in those quarters of the town which were too crowded and in which the streets were too narrow to allow even of the public dust-bin system. There is not the remotest danger that the religious feelings of any Hindu will be affected in the smallest degree if this system is properly and judiciously worked."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I must say that my memory fails me with regard to what the Hon'ble Member in charge of the Bill says transpired in the Select Committee, and, in fact, Sir, I once suggested that it would be a good thing if the proceedings of Select Committees were published in the same way as the proceedings of the various Committees of the Corporation are published. Then we could rely upon regularly authenticated notes as to what transpired. I must say I do not remember anything at all about the matter to which my hon'ble friend has referred. I do not wish to challenge his statement, but I have no recollection of the matter. Apart, however, from what transpired in the Select Committee, I should like my hon'ble friend to make a reference and to abide by this reference as to whether what I have said is not consistent with the facts of the case. I will not say that Hindu feeling would be hurt, but Hindus would not have anything to do with the dust-bins at the entrance to their houses if they have been used by dhangars and others, and I think that is the correct view of the matter. When a Hindu finds that dhangars and mehters go and touch the dust-bins, they will fight shy of them. It may be a prejudice, but there it is, the prejudice exists, and, if there is that prejudice, the law would be unworkable. If I did not take up that position in the Select Committee, I failed to do my duty, and because I failed to do my duty at the Select Committee, that is no reason why I should fail to do my duty here, having regard to what I know about Hindu feeling in this matter."

The Hon'ble MR. SPINK said:—"I perfectly remember the explanation which the Hon'ble Member in charge of the Bill gave in the Select Committee, and he has explained it here again exactly as he did in the Select Committee."

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble MR. BAKER said:—"As the Hon'ble Babu Surendranath Banerjee has hinted that there may possibly be some question of religious feeling, I am quite willing to allow the General Committee a voice in this matter. I have not the smallest objection to provide that 'the Chairman in the discharge of his duty under this section shall be subject to the control of the General Committee.'"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept that."

The motion was then put and lost.

The Hon'ble MR. BAKER, with the permission of the President, then moved that the following clause be added to section 459B (*now* 430):—

"(*b*) In the exercise of his powers under this section, the Chairman shall be subject to the control of the General Committee."

The motion was put and agreed to.

SECTION 431.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 459C (*now* 431), clause (*a*), for the word "or" at the end, be substituted "and if the occupier fails to carry out such direction."

He said:—"Section 459C (*now* 431) deals with the collection and removal of rubbish and offensive matter accumulating on business premises. The two clauses as they stand seem to be alternatives. I am not sure that this is really intended. The section first provides that—

'When any premises are used for carrying on any manufacture, trade or business in the course of which rubbish or offensive matter is accumulated in quantities which are, in the opinion of the Chairman, too considerable to be deposited in any of the methods prescribed by notice issued under section 459B (*now* 430), the Chairman may,—

(*a*) by written notice, direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises, and to remove the same at such times, in such carts or receptacles, and by such routes as may be specified in the notice, to a public receptacle, depôt or place provided or appointed under section 459A (*now* 429).'

"This is followed by an alternative in clause (*b*):

'or, after giving such occupier written notice of his intention so to do, himself cause all rubbish and offensive matter accumulating in such premises to be removed,

and charge such occupier for such removal such periodical fee as may, with the sanction of the General Committee, be specified in such notice.'

"I venture to think that it would be reasonable to bring clause (*b*) into operation only after a notice has been issued under clause (*a*) and the occupier has failed to take the necessary steps. It does not seem to be just or necessary that there should be any interference by the Corporation even if the occupier is able and willing to carry out the work."

The Hon'ble MR. BAKER said:—"I am pretty certain that the members for the Corporation will not agree to this amendment. That is not the intention at all. The intention is that the Chairman shall have the option, in the case of business premises of that kind, either to require the occupier to remove this refuse, or, if the Chairman thinks fit, he may himself make the necessary arrangements. It is easy to conceive that occasions might arise in which it would not be right that the occupier should have any option in the matter, and in which the requirements of public health would necessitate the Chairman's making arrangements to remove the trade refuse through the ordinary municipal staff. The section, I think, is right as it stands."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to support the remarks made by the Hon'ble Member in charge of the Bill. I think the option ought to be left to the Corporation. These are considerations of public health, and the authority ought to be vested in the Municipality."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA'S motion that in section 459C (*now* 431), clause (*b*), line 5, for "change" be substituted "charge," was not put, it being understood that the word "change" was a typographical error which would be duly corrected in reprinting the Bill.

SECTION 434.

The Hon'ble BABU SURENDRNATH BANERJEE moved that for the words "General Committee," in line 4 of section 463 (*now* 434), the word "Corporation" be substituted.

He said:—"Section 463 (*now* 434) provides—

'In cases not provided for by any notice issued under section 459C (*now* 431), the Chairman shall from time to time, with the sanction of the General Committee, prescribe—

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

(*a*) the hours within which sewage and offensive matter may be removed,

(*b*) the kind of cart or other receptacle in which sewage or offensive matter may be removed, and

(*c*) the route by which such carts or other receptacles shall be taken.'

"This is a question which concerns large sections of the people, and routes may be appointed which may be highly inconvenient, and in a matter like this the Corporation ought to have the authority. I think it is always desirable in matters like these, where the interests of a large class of people are concerned, that the Corporation should have power, and that is all that I have got to say."

The Hon'ble MR. BAKER said:—"This is essentially an executive matter, Sir, and such degree of public control as is necessary is provided for by giving the power of control to the General Committee. I think it is quite wrong and improper that this should be given to the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to point out a nuisance which existed, namely, the removal of night-soil from the Fort. That used to cause a great nuisance to the northern part of the town, and I remember this matter came up before the Corporation, and we fixed the hours within which the night-soil was to be removed. A case of that kind might occur, and, having regard to that fact, it seems to me that it would be as well to leave the power to the Corporation. The Chairman does it in the first instance. You do not interfere with the Chairman. He does it, but it ought to be done subject to the control of a larger body than the Chairman, because considerations of public convenience are concerned."

The motion was then put and lost.

SECTIONS 444 AND 445.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

(*1*) that in section 473 (*now* 444), sub-section (*1*), line 4, before the word "Magistrate" be inserted "Presidency," and

(*2*) that in section 474 (*now* 445), sub-section (*1*), line 6, before the word "Magistrate" be inserted "Presidency."

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved (No. 269) that in section 473 (*now* 444), sub-section (*1*), for the words "such inquiry as he thinks fit to make" be substituted "taking such evidence as may be adduced before him, and after hearing the owner and the occupier."

He said:—"This amendment depends on the same principle as my amendment to section 33 (*now* 41), which was accepted by the Council with a slight modification. The section as it stands now provides that—

'(*1*) If, for any reason, any building intended for or used as a dwelling-place appears to the Chairman to be unfit for human habitation, he may apply to a Magistrate to prohibit the further use of such building for such purpose; and the Magistrate, after such enquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may pass such other order as he may deem just and proper.

'(*2*) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the Chairman certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or a Magistrate, by written order, withdraws the prohibition aforesaid.'

"I desire to make it quite clear that the enquiry which the Magistrate is to hold will be a judicial enquiry, and, therefore, instead of omitting the words 'such enquiry as he thinks fit to make' as in the other case, I add these words: 'taking such evidence as may be adduced before him, and after hearing the owner and the occupier.'"

The Hon'ble MR. BAKER said:—"I do not agree to this amendment. The Magistrate's procedure is governed by the Criminal Procedure Code. Why should we in a Municipal Act go out of our way to prescribe it for him unless we have some intention of modifying the ordinary procedure? There is no intention of modifying the procedure laid down for magisterial enquiries under the Criminal Procedure Code. Why not leave it to the operation of the ordinary law?"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I am surprised, Sir, at this opposition, because the Hon'ble Member in charge of the Bill cannot possibly be right. The Magistrate, when he takes action under this section, does not act under the Criminal Procedure Code. Let us look at the other sections of the Bill, for instance at section 644 (*now* 623); if the Hon'ble Member's contention is right, that section is absolutely superfluous. Sub-section (*1*) of section 644 (*now* 623) provides:—

'(*1*) For the purposes of any enquiry or proceeding under this Act, a Court of Small Causes may summon and enforce the attendance of witnesses and compel them to give

[*Dr. Asutosh Mukhopadhyaya; the President; Mr. Handley; Babu Boikanta Nath Sen.*]

evidence and compel the production of documents, by the same means, and as far as is possible in the same manner, as is provided by the Presidency Small Cause Courts Act, 1882, or the Provincial Small Causes Courts Act, 1887, as the case may be; and, in all matters relating to any such enquiry or proceeding, the said Court shall be guided generally by the provisions of the said Presidency Small Cause Courts Act, or the said Provincial Small Causes Courts Act, as the case may be, so far as the same are applicable.'

"What is the use of this section, if the Small Cause Court Judge, when he hears a case under the present Act, exercises all the powers which he possesses under the general law? I think that the amendment is necessary and I must press it."

The Hon'ble THE PRESIDENT said:—"Will the Hon'ble the Legal Remembrancer advise us on this point?

The Hon'ble MR. HANDLEY said :—"I should say that this might cause harm in one particular case. For instance, under section 133 of the Criminal Procedure Code, a Magistrate can pass an *ex parte* order in cases. He is not bound to record evidence at all, and that would be perhaps inconvenient in a case like this, where a building was in bad order or liable to tumble down. As the Secretary has pointed out, Chapter I, section 5, sub-section (*2*), of the Criminal Procedure Code provides for that offences under local laws shall be tried according to the provisions of the Code.

"So that it seems to me that any proceedings under this special Act would be under the Criminal Procedure Code. I do not quite follow the Hon'ble Member for the University how he would make out that there is a special proceeding provided by this Act."

The Hon'ble BABU BOIKANTO NATH SEN said:—"I venture to think that this special power ought to be given to the Magistrate under this Municipal Act. The Criminal Procedure Code makes an exception in favour of local Acts or special Acts, and the provision in section 644 (*now* 623), as has been pointed out by the Hon'ble Dr. Asutosh Mukhopadhyaya, makes it necessary that there should be a special provision as regards powers to be exercised by the Magistrate. The Magistrate to exercise such power must have special powers."

The motion was then put and lost.

[*The President; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

The Hon'ble THE PRESIDENT said:—"The motion just lost covers the Hon'ble Dr. Asutosh Mukhopadhyaya's motion No. 272."

The last motion having been lost, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion (No. 272) standing in his name that in section 474 (*now* 445), sub-section (*1*), for the words "such enquiry as he thinks fit to make" be substituted "taking such evidence as may be adduced before him, and after hearing the owner and the occupier."

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the word "may" in line 1 of sub-section (*2*) of section 474(*now* 445).

He said:—"Section 474 (*now* 445) provides:—

'(*1*) If it appears to the Chairman that any dwelling-house, or any public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, he may apply to a Magistrate to abate such overcrowding; and the Magistrate, after such enquiry as he thinks fit to make, may, by written order, require the owner of the building or room, within a reasonable time, not exceeding four weeks, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(*2*) The General Committee may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (*1*), to be necessary for each occupant of a building or room.

(*3*) If the owner of any building or room referred to in sub-section (*1*) has sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

(*4*) It shall be incumbent on every tenant, lodger or other inmate of building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (*1*).'

"The object is to prevent overcrowding, and the order has to be passed only once, and a general rule is to be laid down. It seems to me that in an important question like this, where the interests of the Indian rate-payers are so largely concerned, it is necessary that the Corporation should control the sanitary laws that have to be enforced; but the sanitary laws have to be enforced with a due regard to the conveniences, wants and capabilities of the people. I think the Corporation would be in a better position to judge of these capabilities than the General Committee, and the thing has to be done only once.

[*Babu Surendranath Banerjee ; Mr. Baker.*]

Once a rule has to be laid down, and it seems the General Committee may do so with the sanction of the Corporation. You are going to introduce new sanitary rules to which the people are absolute strangers, and, in order to adapt those rules to local requirements, local knowledge is necessary, and local knowledge is not to be found in the General Committee to the same extent as it would be found in the Corporation consisting of the representatives of the rate-payers."

The Hon'ble MR. BAKER said:—"This is purely a matter of executive detail, and I really cannot conceive on what sort of principle it is proposed to transfer a matter like that to the jurisdiction of the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I do not see that there is any question of transfer. It is not a transfer of authority from the General Committee to the Corporation. Suppose, for instance, a rule is laid down by the General Committee which operates with great hardship upon a particular class of the native inhabitants; surely it would be a good thing to allow the Corporation to say something about it."

The motion being put, the Council divided as follows:—

Ayes. 5.	*Noes 12.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apcar.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 474 (*now* 445), sub-section (*4*), be added "and no such tenant, lodger or other inmate shall be entitled to claim damages from the owner on account of such eviction."

He said:—"Section 474 (*now* 445) deals with the subject of abatement of overcrowding in dwelling-houses, and sub-section (*4*) provides that 'it shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do, in pursuance of any requisition made under sub-section (*1*).' It seems to me to be a necessary corollary that the landlord should be protected, if there is any eviction of his tenant by the Corporation; in such a case, the landlord ought not to be held liable for damages to the tenant."

The Hon'ble MR. BAKER said:—"I think this amendment is unnecessary. I am advised that, if a tenant is evicted under a statutory provision of the law, he is not ordinarily entitled to any compensation or damages from his landlord; but, if for any special reason and in any special case he had such a legal claim, why should we take it away?"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I anticipated, Sir, this objection: either it is a very easy question of law, which it is not necessary to deal with, or, if the tenant has a legal right, why take it away? However, I press my amendment on the Council."

The motion was then put and lost.

SECTION 447.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 476 (*now* 447), clause (*ii*), after the word "land" be inserted "or tank or the site of such tank."

He said:—"These words are to be found in the existing Act, and I have not been able to make out any valid reason why they should be omitted. Section 476 (*now* 447) says:—

'(*1*) When any well, tank or marshy ground, or any waste or stagnant water, whether within any private enclosure or not, appears to the Chairman to be injurious to health or offensive to the neighbourhood, he may, by written notice, require—

(*a*) the occupier of the building or land to which such well pertains, or

(*b*) the owner of such tank, ground or water,

[*Dr. Asutosh Mukhopadhyaya ; Mr. Baker.*]

to cleanse or fill up such well, tank or ground with suitable material, or to de-water the same, or to drain off or remove such water.

(*2*) If the Chairman, in exercise of the powers conferred by section 622, (*now* 579) executes any work referred to in a notice issued under sub-section (*1*) of this section, and if the person liable to pay the expenses of such work fails to pay the same, the Chairman may—

(*i*) lease any part of the land used in connection with the said well, tank or water, or any part of the said ground, as the case may be, or

(*ii*) retain possession of such land or ground and utilise the same for public purposes.

(*3*) If the said expenses be paid by an occupier of land, he may deduct the same from any rent due to the owner of the land.

(*4*) An appeal shall lie to the General Committee from any notice issued or other action taken by the Chairman under this section, and their decision shall be final.'

"In the present Bill I find the words 'retain possession of such land.' I do not think there is any intention to limit the law as it now stands. There is no reason why it should be so restricted, and the Corporation ought to have power not only to retain possession of such land or adjoining land, but also of the tank itself or the site of the tank."

The Hon'ble MR. BAKER said:—"The words 'such land' in clause (*ii*) refer back to the words 'land used in connection with the said well,' etc., which occur in clause (*i*). I do not think it is necessary or that it would make sense to insert these words in clause (*ii*) only. I cannot understand the reason for it."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"If you look back to clause (*a*), you will observe that the word 'land' does not cover a tank; the words are 'the occupier of the building or land to which such well appertains,' whereas in clause (*b*) the words are 'the owner of such tank, ground or water.'

"There is no intention, I understand, that the Corporation should not have the power to take possession of the tank or the site of the tank."

The Hon'ble MR. BAKER said:—"I will accept this amendment."

The motion was then put and agreed to.

[*Babu Boikanta Nath Sen; Mr. Baker; Babu Surendranath Banerjee.*]

Section 448.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the words "or otherwise" be inserted after the words "General Committee" in line 2 of sub-section (*1*) of section 477 (*now* 448).

He said:—"I have been requested by the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur, to move this amendment, and I have pleasure in doing so. Section 477 (*now* 448) as proposed to be amended will read:—

'The Corporation, at the instance of the General Committee or otherwise, may by a general order,' etc.

"The object is very clear: that the Corporation may have its discretion in moving under this section not simply at the instance of the General Committee, but it may also take action on any other information."

The Hon'ble MR. BAKER said:—"In the original Bill this power was vested in the General Committee only, and in the Select Committee this modification was made. I was opposed to the modification, and regret it because it seems to me that this is a power with which the Corporation have really nothing material to do. I do not wish to go behind the decision of the Select Committee in any way, but taking that decision, I think on the other hand we ought not to exclude the General Committee, because the General Committee is the working body of the Corporation, and will probably be better informed as to the necessity of passing an order for prohibiting excavations than the Corporation at large will be."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The object is not to exclude."

The Hon'ble MR. BAKER said:—"That excludes the General Committee. It means that the Corporation may act otherwise than at the instance of the General Committee."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The General Committee will have the power of suggesting to the Corporation any course of action it proposes, but the Corporation independently may also act. It does not exclude the General Committee from suggesting to the Corporation that a

particular course of action should be followed. I do not think it excludes. It only widens the sphere of discretion which the section gives to the Corporation. I do not think there ought to be any serious objection to it."

The motion was then put and lost.

Sections 449 and 450.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 477A (*now* 449) and section 477B (*now* 450) the following be added:—

"Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence."

He said:—"Sections 477A and 477B (*now* 449 and 450) deal with the demolition or alteration of building and work which have been unlawfully commenced, carried on, or executed. Section 477A (*now* 449) provides as follows:—

'If the General Committee are satisfied—

(*1*) that the erection or re-erection of any building—

(*a*) has been commenced without obtaining the permission of the Chairman, or (where an appeal or reference has been made to the General Committee) in contravention of any orders passed by the General Committee, or

(*b*) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or

(*c*) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or bye-laws made hereunder, or of any direction or requisition lawfully given or made under this Act or such rules or bye-laws, or

(*2*) that any alterations required by any notice issued under section 391D (*now* 383) have not been duly made, or

(*3*) that any alteration of, or addition to, any building, or any other work made or done for any purpose in, to or upon any building, has been commenced or is being carried on or has been completed in breach of section 405A (*now* 391), section 421 (*now* 402) or section 422 (*now* 403),

the General Committee may apply to a Magistrate, and such Magistrate may make an order—

(*i*) directing that the work done, or so much of the same as has been unlawfully executed, be demolished by the owner of the building or altered by him to the satisfaction of the Committee, as the case may require, or

[*Dr. Asutosh Mukhopadhyaya.*]

(*ii*) directing that the work done, or so much of the same as has been unlawfully executed, be demolished or altered by the Chairman at the expense of the owner of the building.'

"Similarly, section 477B (*now* 450) provides:—

"In any of the following cases, namely:—

(*1*) if, within the period prescribed in any notice issued under section 329B, sub-section (*3*) [now section 340, sub-section (5)], requiring the owner or occupier of a building to comply with any condition on which the putting up of any verandah or other projection was permitted, such condition is not complied with, or

(*2*) within the period prescribed in any notice issued under section 329B, sub-section (*4*) [*now* section 340, sub-section (6)], requiring the owner or occupier of a building to remove a verandah or other projection, the same be not duly removed, or

(*3*) if, within the period prescribed in any notice issued under section 329C (*now* 341), sub-section (*1*), requiring the removal or alteration of a fixture, the fixture be not duly removed or altered, or,

(*4*) if the General Committee decide that any additions made to a building or wall in pursuance of an agreement executed under the proviso to section 335 (*now* 351) ought to be removed, or

(*5*) if, within the period prescribed in any notice issued under section 336 (*now* 352), sub-section (*2*), requiring the owner of a building to remove or alter an external roof or wall made of inflammable material, the same be not duly removed or altered, or

(*6*) if any owners or occupiers neglect to execute any works or take any measures required by any notice affixed under section 475 (*now* 446), sub-section (*1*), or

(*7*) if any privy be placed in contravention of rule 1 or sub-rule (*1*) of rule 2 of Schedule XIIB (*now* XVI), or

(*8*) if any person, after erecting a service privy authorised under the proviso to sub-rule (*1*) of rule 2 of Schedule XIIB (*now* XVI), fails to pay any sum required under that proviso,

the General Committee may apply to a Magistrate, and such Magistrate may make an order directing that the projection, fixture, additions, roof, wall, buildings or privy, as the case may be,—

(*a*) be demolished by the owner or altered by him to the satisfaction of the Committee, or

(*b*) be demolished or altered by the Chairman at the expense of the owner.'

[*Dr. Asutosh Mukhopadhyaya; Mr. Baker; Mr. Handley.*]

"My suggestion is that no *ex parte* order should be made under either of these sections; there can be no possible question that the order should be made after the owner and occupier have been given a full opportunity of being heard in defence."

The Hon'ble MR. BAKER said:—"I can only say, what I said with reference to amendment No. 269* that this is a matter in which the Magistrate ought to follow—and as I imagine will be bound to follow—the terms of the Criminal Procedure Code as to his procedure in conducting an enquiry. I imagine that, if any Magistrate did not follow that procedure, he would be immediately called to order by the High Court."

The Hon'ble MR. HANDLEY said:—"I wish to point out, with reference to what the Hon'ble Member in charge of the Bill has said, that there is a specific provision in section 474 (*now* 445) of the Bill that the Magistrate shall make such enquiry, whereas there is none in these two sections. So it is possible they might be interpreted in the sense that the Hon'ble Member for the University has pointed out. Section 474 (*now* 445) provides:—

'If it appears to the Chairman that any dwelling-house, or any public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, he may apply to a Magistrate to abate such overcrowding; and the Magistrate, after such enquiry as he thinks fit to make, may, by written order, require the owner of the building or room, within a reasonable time, not exceeding four weeks, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.'

"There is a specific provision there that he shall make an enquiry; so that it is possible, if there is no such provision in these two sections, he can pass an *ex parte* order under section 133 of the Criminal Procedure Code without taking any evidence whatever. It is possible that that mistake might occur."

The Hon'ble MR. BAKER said:—"In view of what the Hon'ble the Legal Remembrancer has said, I accept the amendment. It never was intended for a moment that he should pass an *ex parte* order. The only doubt was whether this particular amendment was necessary or not."

The motion was then put and agreed to.

* Printed *supra*, p. 994.

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Apcar.*]

SECTION 455.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the word "and" in line 4 of clause (*a*) of sub-section (*1*) of section 482A (*now* 455), the following words be substituted:—

"or bullocks for registered carts or horses for hackney carriages, and."

He said:—"Section 482A (*now* 455), clause (*1*), provides—

"The Corporation, at the instance of the General Committee, may give public notice of their intention to declare—

(*a*) that in any area specified in the notice no person shall keep milch-cattle for the purpose of supplying milk by sale."

"This is a sanitary provision. The object is to exclude the keeping of milch-cows in certain areas by a general order on the part of the Corporation. I suggest that bullocks for registered carts and horses for hackney carriages may also be included, and it shall be open to the Corporation to declare that in certain parts of the town no milch-cow, no bullocks for registered carts and no horses for hackney carriages shall be kept. This is only an extension of a principle which has been already conceded in the first part of the sub-section. The object is entirely sanitary."

The Hon'ble MR. BAKER said:—"The provisions of section 482A (*now* 455) are extremely drastic. They give the Corporation power to declare that within an area to be specified no animals of a particular kind may be kept at all. Now the section as it stands at present is limited to the case of milch-cattle, and the justification for that provision in the case of milch-cattle is that they produce milk, and milk is an article of human food which is peculiarly liable to contamination. That argument does not apply in the case of bullocks for registered carts or horses for hackney carriages, and it seems to me that we ought to be very careful before we extend the provision of this drastic section to any further cases. If the Hon'ble Member will look at the two succeeding sections 482B and 482C (*now* 456 and 457), I think he will find that really everything which is essentially necessary in the case of bullocks and hackney carriage horses is already provided for and includes everything that is reasonable."

The Hon'ble MR. APCAR said:—"I support the amendment. If power is given to the Corporation to make a declaration, it would give power to prevent

bullocks for registered carts and horses for carriages from becoming a nuisance n a neighbourhood, and in this view I support the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"All that is wanted is a declaratory power—not that the moment you pass the section all the bullocks and all the hackney carriages will be transferred from one part of the town to the other. The section will be enforced only at the instance of the General Committee and upon evidence and information which the Corporation shall consider to be necessary. In the existing law there is no such provision, and I will give you my reason why this provision suggested itself to my mind. I had a case in my ward. There was an Eurasian gentleman in a humble position who lived in ward No. 14, and he had a number of milch-cows kept close to his house. The owners of the cows were fined, but there was no power to order their transfer from that particular place, and he and his family suffered from illness for months together. The case struck me as a real grievance which the Legislature ought to remove, and I think it was at my suggestion that this provision was inserted. A similar nuisance might arise from the near presence of hackney carriage horses and bullocks belonging to bullock-carts, and it strikes me that, if a provision of this kind is made applicable to milch-cows, it ought to be extended also to bullocks and hackney carriage horses. It is not that, immediately the power is given, the Corporation will take action, but the power is conferred upon the Corporation, and when there are occasions the power will be used. I do not see that there ought to be any objection to this."

The motion was then put and lost.

SECTION 459.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "Corporation" be substituted for the word "Chairman" in line 1 of section 484 (*now* 459).

He said:—"Section 484 (*now* 459) provides—

'The Chairman may from time to time set apart suitable places vesting in the Corporation for use by the public for bathing, for washing animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public for any of the said purposes of any place not vesting in the Corporation.'

"And the next section 485 (*now* 460) provides:—

'(1) The Chairman may, by public notice, regulate the use by the public of—

(a) any place vesting in the Corporation which is set apart by him for any purpose under section 484 (*now* 459), and

(*b*) any place not vesting in the Corporation which is used with his acquiescence for any purpose mentioned in that section.

(*2*) In the case of any place set apart or assigned for bathing, the Chairman may, in the said notice, prescribe the places of bathing for persons of each sex.'

"I suggest that the power of setting apart the places under this section should be vested in the Corporation. If my hon'ble friend will not consent to vest this power in the Corporation, I would suggest that the General Committee should set apart suitable places. I do not wish to interfere with an executive matter, namely, that the Chairman may regulate the use by the public of any place vesting in the Corporation, &c. It is an order passed once for all. It is an order which concerns public convenience, and it strikes me that the representatives of the public ought to have something to say about it. I am prepared to modify my amendment by putting in 'the General Committee' instead of 'the Corporation.'

The Hon'ble MR. BAKER said:—"I think it best to leave it to the Chairman. Plainly, it is not a matter in which we can entertain the motion of substituting 'the Corporation' for 'the General Committee.' There is less objection to that, but I think it is better on the whole to leave it as it is."

The motion was then put and lost.

NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that the following section be inserted after section 491 (*now* 466):—

"491A. The Corporation, at the instance of the General Committee, may set apart any area specified in any notice issued in that behalf in which no business referred to in section 491 (*now* 466) shall be carried on;"

and, in substitution therefor, moved the following:—

(*1*) that the following section be inserted after section 492A (*now* 468):—

"492B. (*1*) The Corporation, at the instance of the General Committee, may give public notice of their intention to declare that in any area specified in the notice no person shall use any premises for any of the purposes referred to or mentioned in section 491 (*now* 466).

(*2*) No objections to any such declaration shall be received after a period of one month from the publication of such notice.

(*3*) The General Committee shall consider all objections received within the said period, and shall then report to the Corporation, who may thereupon make a declaration in accordance with the notice published under sub-section (*1*).

[*Babu Surendranath Banerjee; Mr. Baker; Babu Jatra Mohan Sen.*]

(*4*) Every such declaration shall be published in the Calcutta Gazette, and shall take effect from the date of such publication.

(*5*) No person shall in any area specified in any such declaration use any premises for any of the purposes referred to or mentioned in section 491.";

(2) that in the tabular statement annexed to section 602 (*now* 574) the following be inserted:—

"Section 492B (*now* 469), sub-section (*5*).	Using premises in declared area for any purpose referred to or mentioned in section 491 (*now* 466).	Fifty rupees."

(3) that in the tabular statement annexed to section 603 (*now* 575) the following be inserted:—

"Section 492B (*now* 469), sub-section (*5*).	Using premises in declared area for any purpose referred to or mentioned in section 491 (*now* 466).	Five rupees."

He said:—"The last two amendments are consequential to the first one, and I understand the Hon'ble Member in charge of the Bill accepts them."

The Hon'ble MR. BAKER said:—"I accept these three amendments."

The motions were severally put and agreed to.

SECTION 468.

The Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that in section 492A (*now* 468), sub-section (*2*), the words subject to the control of the Corporation" be inserted after "shall."

SECTION 470.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the words "the General Committee may" in line 20 of sub-section (*1*) of section 493 (*now* 470).

He said:—"The sub-section gives power to the General Committee to direct discontinuance of the use of premises for certain trades near dwelling-houses. That is the power which is given to the General Committee; and then, Sir, if the General Committee is satisfied of the existence of the nuisance, it may, by written notice, require the occupier of such premises to discontinue such

nuisance within a month after service of the notice. Then, Sir, we have this provision in sub-section (*2*):—

'When the use of any premises for any of the purposes aforesaid has been discontinued in pursuance of such a notice, no compensation shall be payable for loss arising from such discontinuance, but the Corporation shall be bound to purchase both the land and the buildings from the owner; and, if the Corporation are unable to agree with the owner as to the price to be paid, the land and buildings may be acquired under the Land Acquisition Act, 1894."

"That is a very serious matter. 'The Corporation shall be bound to purchase both the land and the building'; and I think, Sir, it is right that, when the Corporation has to incur a large expenditure, the proceedings which lead to that large expenditure should be proceedings subject to the supervision of the Corporation, and the approval of the Corporation should be taken. The Corporation has to incur the expenditure; that expenditure may be very considerable, if the expenditure is expenditure to be paid as compensation for land and buildings. That being so, the proceedings which lead up to that expenditure ought to be taken subject to the control of that authority which incurs the expenditure."

The Hon'ble MR. BAKER said:—"Yesterday, Sir, I explained that I should oppose every amendment which seeks to transfer authority from the General Committee or the Chairman. This is one of those provisions, and I do not propose to enter into my reasons for opposing it over again. I explained yesterday that it was a matter of principle that the assignment and distribution of powers which was made by the Select Committee should be adhered to, and I see no reason whatever for making an exception in this case. On the contrary, in this case there is not only the authority of the Select Committee, but there is also the greater authority of the Calcutta Building Commission, by which this section was originally drafted and which assigned this power to the General Committee and not to the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I understand that in politics—and I have for my authority the greatest political philosopher that ever lived, namely, Edmund Burke—when a general principle is laid down, that principle has to be modified by reference to the circumstances under which it is sought to be applied. Burke even goes so far as to say that there is no

[*Ba'u Surendranath Banerjee; the President.*]

such thing as a general principle in politics. The great question is the question of expediency which dominates all political considerations. Therefore, Sir, my non'ble friend is entitled to his principles, and when he has formed them we are bound to respect his principles; but may I not ask him to judge his principles in each particular case by the circumstances of that particular case? I think, Sir, it is rather a dangerous thing to lay down a principle of universal application. I think, Sir, we are entitled to ask my hon'ble friend in the responsible position which he occupies as the Member in charge of this Bill to consider his principle, however inexorably wedded he may be to that principle, in each case by a reference to the actual circumstances of that case. I think, Sir, we are entitled to make that appeal to him, and, if we make that appeal to him, we are entitled also to ask that he will respond in a manner becoming his position. I say here the circumstances are such as to call for a modification of my hon'ble friend's principle. As I said just now, the expenses have to be borne by the Corporation; and the expenses may be very large. Is the Corporation simply to be a sort of mechanical instrument for the purpose of payment of certain expenditure without being able to control that expenditure? I am perfectly certain we do not want to place the Corporation in that position, and, if the Corporation has to pay, it ought to control the expenditure it has to incur."

The Hon'ble THE PRESIDENT said:—"The General Committee cannot move in this matter without funds. I assume it is bound by some budget provision."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I do not think there will be a provision of this kind. There may be contingencies, but this is somewhat of an extraordinary expenditure."

The Hon'ble THE PRESIDENT said:—"The funds will have to come from somewhere."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"They will have to take the consent of the Corporation."

The Hon'ble THE PRESIDENT said:—"In that way they must move within the limits of the sums that are placed at their disposal by the Corporation. You can incur no expenditure without funds."

[*Babu Surendranath Banerjee ; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"There may be no such head in the budget as framed."

The Hon'ble MR. BAKER said:—"Then they will have to get special sanction from the Corporation before they can acquire the land."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If there is sanction; but you do not allow them to do that."

The Hon'ble MR. BAKER said:—"They cannot incur any expenditure in excess of the budget grant without the express sanction of the Corporation. That is provided in section 120 (*now* 126)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"You probably may not want a budget grant in respect of a matter like this. We have not got a budget head of that kind, and it is not a thing which is likely to be covered by contingencies. The expenditure may be Rs. 30,000, and it would not be covered by contingencies."

The Hon'ble MR. BAKER said:—"There is no intention that it should. It the General Committee wish to take action under this section, and if they find it necessary to acquire any land or building, they will have to get the sanction of the Corporation to the expenditure involved. That is provided for by section 120 (*now* 126) of the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The sanction of the Corporation will have to be obtained to the expenditure. If the sanction has to be obtained to the expenditure, I think the Corporation should be entitled to ask whether this is fair expenditure or not, and therefore the Corporation should be entitled to ask whether the expenditure cannot be reduced. I think these are legitimate questions to ask on the part of the authority which controls expenditure. I think, Sir, if a Bill came before Your Honour as Lieutenant-Governor in respect of any matter of administration, I am perfectly certain Your Honour would be entitled to know all about it, and Your Honour would be entitled to reduce the Bill if you thought it excessive. Therefore, that being so, and the Corporation being the controlling authority as regards expenditure, it ought to have something to say with regard to the circumstances which led up to the expenditure. My hon'ble friend forgets the fact that

[*Babu Surendranath Banerjee; Mr. Baker; the President.*]

financial control involves all other kinds of control. Give the financial control to a particular body, and you do not know how many other kinds of control are involved in it. The House of Commons does not exercise anything more than financial control, and it is a sovereign body."

The Hon'ble MR. BAKER said:—"The Hon'ble Member appears to be riding his hobby of financial control to death. He seems to argue that everything which involves any expenditure shall have the sanction of the Corporation, not only to the incurring of the expenditure, but also in all its administrative aspects. That is just the difference here. Before the General Committee can incur any expenditure under this section, they will have to get the funds from the Corporation, either by a budget provision or otherwise. There is no reason whatever for requiring the sanction of the Corporation to the administrative action of the General Committee in issuing an order under this section."

The Hon'ble THE PRESIDENT said:—"I should like to give an illustration. Suppose the Secretary wants to buy certain books for the official library; I do not ask him any questions as to the particular books he buys, so long as he keeps within his allowances, and that is what will happen in this case."

The motion being put, the Council divided as follows:—

Ayes. 5.	*Noes. 12.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apcar.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

[*Babu Surendranath Banerjee; Mr. Baker; Babu Boikanta Nath Sen.*]

SECTION 472.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the word "Chairman" in line 5 of sub-section (*4*) of section 494 (*now* 472).

He said:—"The principle is the same as in the previous case, and I suppose the Hon'ble Member will object. My friend has enunciated one principle. I have got another to enunciate, and of course I am not prepared to give up my principle. I am prepared to hold by my principle with quite the same degree of tenacity with which my friend adheres to his, with this difference that, I am prepared to modify it according to circumstances, which my friend is not prepared to do. This is an amendment which covers very much the same ground. Sub-section (*4*) of section 494 (*now* 472) provides:—

'But if it appears that there has been no contravention of the said sub-section, the said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the Chairman.'

"I suggest that it should be paid with the sanction of the Corporation."

The Hon'ble MR. BAKER said:—"I do not think it necessary to say very much on this motion. In the circumstances mentioned in this section, the payment of compensation is compulsory. Therefore, it makes not the slightest difference whether the words 'with the sanction of the Corporation' are inserted or not. The action of the Chairman is really ministerial."

The motion was then put and lost.

SECTION 478.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the words "and the Local Government" in section 502 (*now* 478) be omitted.

He said:—"I have much pleasure in moving this amendment on behalf of Raja Ranajit Sinha Bahadur, of Nashipur. This refers to the closing of municipal markets and municipal slaughter-houses, and the amendment has a tendency to strengthen the executive; and I think the Hon'ble Member in charge of the Bill will have no hesitation in accepting it, because it will authorise the Chairman, with the sanction of the Corporation, only to take action, and it will relieve the Chairman from getting a further sanction from the Local Government."

[*Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

SECTIONS 485, 486, 487 AND 488.

The Hon'ble BABU SURENDRANATH BANERJEE moved that wherever the word "market" or the word "market-place" occurs in sections 507, 507A, 507B and 508 (*now* 485, 486, 487 and 488), the words "or bazar" be added after such word.

He said:—"I find that this amendment, which stands against my name, partly covers the amendments about which the Hon'ble Member in charge of the Bill has given notice. The only difference is that he has not given any notice in respect of section 507 (*now* 485)."

The Hon'ble MR. BAKER said:—"Item No. 4 in the seventh supplementary list covers that section."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The object of this amendment is this. You provide for market-places, slaughter-houses, etc., and you give the Chairman power to pass orders regarding the paving, cleansing, etc., so far as the market-places are concerned. But take China Bazar; that is not a market-place; it is not a slaughter-house, and, if the word 'bazar' was not inserted in the sections in which I propose it should be inserted, the result would be that the Chairman and the Municipality would have no control over the cleansing and paving and other sanitary arrangements of such places as China Bazar. There may be other bazars, and, therefore, it is necessary that the word 'bazar' should be inserted after the word 'market' or 'market-place' in sections 507, 507A, 507B and 508 (*now* 485, 486, 487 and 488)."

The Hon'ble MR. BAKER said:—"I have four amendments which follow on the same lines as the one moved by the Hon'ble Babu Surendranath Banerjee. My amendments have been drafted by the Secretary, and perhaps the Hon'ble Member will not mind waiving his amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I withdraw my amendment in favour of the Hon'ble Mr. Baker's."

[*Mr. Baker; Babu Surendranath Banerjee; Babu Jatra Mohan Sen; Babu Boikanta Nath Sen.*]

The Hon'ble MR. BAKER moved—

(1) that in section 507 (*now* 485) the word "bazar" be inserted after the word "market" and after the words "market-place" wherever they occur;

(2) that in clauses (*a*) and (*b*) of section 507A (*now* 486), the words "or any bazar" be inserted after the words "any private market;" that in clause (*b*) of the same section the words "or bazar" be inserted after the words "such market;" and that in clause (*b*) and sub-section (*2*) of the same section the words "or bazar" be inserted after the words "the market;"

(3) that in the opening clause of section 507B (*now* 487), the words "or any bazar" be inserted after the words "any private market;" and that in clauses (*a*) and (*b*) of the same section the words "or bazar" be inserted after the words "such market;"

(4) that in clauses (*a*), (*c*) and (*d*) of section 508 (*now* 488), the word "bazar" be inserted after the words "market-place;" that in the said clause (*a*) the words "or bazar" be inserted after the words "any market;" that in clause (*b*) of the same section the word "bazar" be inserted after the word "market;" and that in clause (*e*) of the same section the words "market-places and bazars" be substituted for the words "and market-places."

The Hon'ble MR. BAKER's motions were put together and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE then, by leave of the Council, withdrew his amendment.

SECTION 497.

The Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that in section 517B, sub-section (*1b*), [*now* section 497, sub-section (*3*)], the words "subject to the control of the Corporation" be inserted after "shall." He explained that he withdrew the motion because similar amendments had been lost.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the

[*Babu Boikanta Nath Sen; Mr. Baker; the President.*]

word "Corporation" be substituted for "General Committee" in sub-section (*1b*) of section 517B [*now* sub-section (*3*) of section 497].

He said: "This section refers to the registration of shops and places for retail sale of drugs. If there is a refusal to register an appeal is provided. The clause reads:—

'If any person is dissatisfied with such refusal, he may appeal to the General Committee, whose decision shall be final.'

"The amendment proposes that the appeal shall be to the Corporation. The Corporation being supposed to be the largest representative as it were of the Municipality, the appeal ought to be made there."

The Hon'ble MR. BAKER said:—"I can add nothing to what I said this morning about appeals lying and not lying to the Corporation. This certainly is a case in which the appeal must lie to the General Committee."

The motion was then put and lost.

SECTION 502.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the word "oil" be inserted after the word "butter" in line 5 of section 519 (*now* 502).

He said:—"Sir, Section 519 (*now* 502) provides:—

'It shall be the duty of the Chairman to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.'

"Several articles are mentioned, but oil is not mentioned, and I think this amendment ought to be accepted."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The Hon'ble THE PRESIDENT said:—"It is only oil that is fit for food. It does not, I presume, apply to kerosine oil?"

The Hon'ble Mr. BAKER said:—"That is provided for by the words 'and intended for human food,' further on in the section."

The motion was put and agreed to.

SECTION 513.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "other than a public hospital" in line 4 of sub-section (*1*) of section 533 (*now* 513) be omitted.

He said:—"The section imposes an obligation upon private medical practitioners to report cases of dangerous disease to the Corporation, but public hospitals are eliminated from this obligation. The section says:—

'(1) Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the Health Officer.

'(2) The said information shall be communicated in such form and with such details as the Health Officer, with the consent of the Chairman, may from time to time require.'

"I do not see why a public hospital should be exempted from the obligation of giving information. I know that that is the present law; but, Sir, as the law is about to be revolutionised, it might be changed also in this matter. I do not see why public hospitals should be exempted from this obligation. I know they send information, but still it ought to be a statutory obligation, and they ought to be called upon to send the same information which every private medical practitioner and other persons have to supply."

The Hon'ble MR. BAKER said:—"Public hospitals are in charge of Government officers, and Government requires them to furnish whatever information is necessary to the Health Officer under its own orders. It is not necessary to impose a statutory obligation upon them. As the Hon'ble Member has said, there is no such statutory obligation under the present Act, and no case has been made out for making any change."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"Am I to understand that it is disrespectful for Government to submit its servants to a statutory obligation? I do not think so at all. Government servants ought not to be exempted. I think Government ought to consent to a statutory obligation being imposed upon its officers to report these cases to the Health Officer."

The motion was then put and lost.

[*Babu Surendranath Banerjee.*]

SECTION 515.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "clothes" in line 4 of sub-section (*1*) of section 535 (*now* 515) the following words be inserted:—

"or for any other purpose."

He said:—"I shall read the section with the words inserted.

'535 (*now* 515). (*1*) If it appears to the Chairman that the water in any well, tank or other place is likely, if used for drinking or for the washing of clothes, or for any other purpose, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking or of washing clothes.

'(*2*) No person shall remove or use, for the purpose of drinking or of washing clothes, any water in respect of which any such public notice has been issued.'

"I think there is a practical difficulty in the way of this section. A tank is considered to be dangerous, the water is considered to be polluted, and you prohibit the removal of the water for purposes of drinking and washing. What is the guarantee that the water, being removed for some other purpose, would not be drunk as good water? A person takes water from the tank and says:—'I am not going to use that water for drinking or washing, but for other purposes,' and you allow him to remove the water. He takes the water home and drinks it. What is there to prevent his doing that? It seems to me that, if you have a section like this, in actual working it is capable of being evaded in the simplest way; and it strikes me if you rule that the water shall not be removed under any circumstances, whether for purposes of drinking, washing or for any other purpose, you introduce an effective safeguard against the spread of infection; and I desire to remind the Council of the presence of plague in the town, and, having regard to that fact, it is necessary to render the section stringent in the interests of sanitation. I want to render it stringent in order that it may not be evaded. The section, as it stands, affords the amplest facilities for evasion. Water may be removed ostensibly, not for drinking or washing purposes, but, being removed, it may be drunk, and it may be used for washing purposes. The lowest class of the people do not understand the danger that lurks in water of this kind for drinking purposes, and they are prepared to tell a falsehood in order to get over an inconvenience. It

strikes me, therefore, that the mandate of the law should be that under no circumstances should water, which is pronounced dangerous or infectious, be permitted to be removed."

The Hon'ble MR. BAKER said:—"The amendment, as it stands, will not have the effect that the Hon'ble Member intends. It will be necessary also to omit the last line of sub-section (*1*), and the words 'for the purpose of drinking or of washing clothes,' both in sub-section (*1*) and in sub-section (*2*)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am prepared to do that."

The Hon'ble MR. BAKER said:—"The Chief Secretary points out that there is another objection also to this amendment, which is that it would prevent yon from using the water for watering gardens and matters like that. So far as I am concerned, if the words 'for the purpose of drinking or of washing clothes' are left out where they occur in sub-section (*1*) and sub-section (*2*), then I have no particular objection to the section."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept that. A garden is a luxury, and persons who have gardens can afford to get water from elsewhere."

The Hon'ble MR. BOLTON said:—"If the water is not to be touched at all, there would surely be more danger than if it could be taken out for the purpose of watering roads or streets, fresh water being allowed to come in from rainfall or drainage. By not removing the water you really perpetuate your source of disease."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"If we have got a tank, and this tank is declared to be dangerous and full of bacilli, I think it is dangerous to take it to a garden or to public streets for the purpose of watering. And then, further, what difference would it make in the volume of water of a tank, if it was used for garden purposes? I do not think the quantity of water would be sensibly diminished by such a proceeding. The point of view from which I look at it is that ignorant people would be coming in contact with the water and spread the disease by doing something which is harmful to themselves, and I think we ought to protect them against that."

[*Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"I think the balance of advantage on the whole is in favour of leaving the section as it stands."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I press the amendment, subject to the alteration which the Hon'ble Member in charge of the Bill has suggested."

The motions being put, the Council divided as follows:—

Ayes 7.	*Noes 10.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Mr. Apcar.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Mr. Mackenzie.	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
The Hon'ble Mr. Spink.	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

SECTION 518.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "shall" be substituted for the word "may" in line 1 of sub-section (*2*) of section 538 (*now* 518); that the words "in any case in which he thinks fit" in line 2 of the same sub-section be omitted; and that the word "any" be substituted for the word "substantial" in line 3 of the same sub-section.

The Hon'ble MR. BAKER said:—"If the Hon'ble Member is willing to omit the last part of his amendment, I will accept the first part. The last part is that the word 'any' be substituted for the word 'substantial' in line 3 of the same sub-section."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept it, because that is all that I can get."

In the course of the debate the Hon'ble Mover withdrew the amendment that the word "any" be substituted for the word "substantial" in line 3 of the sub-section.

The motion in the amended form was then put and agreed to.

The above motion having been carried, the Hon'ble BABU BOIKANTA NATH SEN, in the absence of the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur, by leave of the Council, withdrew the motion, standing in the name of the latter, that the following be substituted for sub-section (*2*) of section 538 (*now* 518(:—

"The Chairman shall pay compensation for any hut or shed destroyed under sub-section (*1*)."

The Hon'ble MR. BAKER said:—"This is covered by the amendment which has just been accepted."

In the absence of the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN, on behalf of the former, moved that the words "with any order of the Chairman refusing to pay compensation or" be omitted from the proviso to sub-section (*2*) of section 538 (*now* 518).

The Hon'ble MR. BAKER said:—"I accept the amendment. It follows necessarily the amendment of the Hon'ble Babu Surendranath Banerjee."

The motion was put and agreed to.

SECTION 520.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "he thinks fit," in line 1 in clause (*b*) of section 540 (*now* 520), the words "the parties are too poor to pay" be substituted.

He said:—"I have a substituted motion for this one. The amendment will run as follows:—

'That for the words "he thinks fit" in line 1 in clause (*b*) of section 540 (*now* 520), the words "he is satisfied that the parties are too poor to pay" be substituted.'

"The Hon'ble Member in charge of the Bill is willing to accept the motion if I modify it in the way in which I have just suggested. I have no objection to this amendment, and I beg to move that it be substituted in place of the original one."

The Hon'ble MR. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

[*Mr. Baker; Babu Surendranath Banerjee.*]

SECTION 524.

The Hon'ble MR. BAKER moved that in sub-section (*2*) of section 544 (*now* 524) the words "without the sanction of the Chairman" be inserted after the word "lawful."

He said:—"This section provides for special conveyances for patients suffering from dangerous diseases. It was pointed out that in the plague scare last year the employment of ambulances for the removal of patients suffering from plague gave rise to a good deal of public excitement. A similar difficulty might occur at some future time, and it is intended to provide that it shall not always be necessary to use the special conveyances if for any particular reason it is inexpedient to do so."

The motion was put and agreed to.

SECTION 526.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "Corporation, with the sanction of the" be inserted after the word "the" in line 3 of sub-section (*1*) of section 546 (*now* 526).

He said:—"There is no reference to the Local Government in the existing law. There is mention of the Local Government in the corresponding section of the Bombay Act. All that the Local Government ought to do is to exercise the power of supervision, and I provide for that in my amendment. I quite admit that, this being a matter of Provincial concern, there ought to be uniformity in the forms used; but the necessary safeguard will be provided when the form is settled under the supervision of the Local Government. The authority of the Local Government is not discarded, but the authority of the Corporation is introduced. These forms ought to be settled by the Corporation, subject to the supervision of the Local Government. The direct intervention of the Local Government is not required in a matter of this kind: all that is necessary is that the forms should be provided subject to the approval of the Local Government."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has himself given the answer to his amendment. This is a matter of vital statistics. It is not a matter of local concern, but of Imperial concern. The forms must be more or less uniform over the whole of India, and must be therefore prescribed by the superior authorities. There is no sort of reason other than a sentimental one for bringing in the authority of the Corporation at all in a matter of this sort."

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE in, reply, said:—"My reasons are practical. Under the present Act the Local Government exercises no supervision over these forms. The forms of the registers are settled by the Corporation. How is it that the work has gone on in this way during the last 20 or 30 years without any difficulty? Admitting that it is a matter of Provincial concern, the Corporation would submit the forms to the Local Government, and the Local Government may prescribe the forms. Uniformity is thus provided; the traditions of the Corporation are preserved; and I do not see that there is any real reason for altering the existing procedure."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the words "Corporation, with the sanction of the" be inserted after the word "the" in line 3 of sub-section (*2*) of section 546 (*now* 526).

He said:—"This is practically the same amendment. These are questions of principle, and I feel it to be my duty to press the amendment on the consideration of the Council. The reasons for this amendment are the same as for the last one."

The Hon'ble MR. BAKER said:—"I have nothing to add to what I said just now."

The motion was put and lost.

SECTION 529.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "Corporation with the sanction of the" be inserted after the word "the" in line 4 of sub-section (*1*) of section 549 (*now* 529).

He said:—"There is no mention of the Local Government in the existing Act. These are merely forms, and the reason for my amendment is the same."

The motion was put and lost.

SECTION 557.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for clause (*a*) of section 585 (*now* 557) the following be substituted:—

"The expression 'Collector' shall include any officer specially appointed by the Local Government to perform any of the functions of a Collector under the said Land Acquisition Act."

[*Dr. Asutosh Mukhopadhyaya; Mr. Oldham; Babu Surendranath Banerjee.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 585 (*now* 557), clause (*a*), the words "and any officer specially appointed by him, with the approval of the Local Government, to perform all or any of the functions of a Collector under the said Land Acquisition Act" be omitted. He said that the motion that clause (*a*) of section 585 (*now* 557) be omitted logically first.

This proposal having been objected to by the Hon'ble Babu Surendranath Banerjee, his motion given above was proceeded with.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"This and the other amendments relate to a question which the Hon'ble Member in charge of the Bill will bear out have excited a large measure of public attention. If my hon'ble friend consults the various petitions addressed to the Government, he will find that almost every one of them has reference to this particular section. Rightly or wrongly, the Indian public regard these provisions relating to land acquisition as involving grave injustice and serious danger to the rate-payers, and it is my duty to press the arguments which occur to me in regard to this matter with as much emphasis as I can command. I hope my hon'ble friend will consider the question free from any preconceived ideas. The arguments in favour of my amendment are so convincing that I feel I have only to state them in order to carry home conviction. Under Act X of 1871, section 7 read with the explanation given of the expression 'Collector,' it would appear that the Local Government has the power at present of appointing anybody it pleases as a Collector under that Act."

The Hon'ble MR. OLDHAM:—"That law is obsolete. The present law is Act I of 1894."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The same. It says:—

'The expression "Collector" means Collector of the district and includes a Deputy Collector or any officer specially appointed by the Local Government to carry out the functions of a Collector under this Act.'"

The Hon'ble BABU SURENDRANATH BANERJEE continued:—"Thus the Local Government may appoint the Chairman of the Corporation or anybody nominated by the Chairman as a Collector under the Act. Therefore, in the first place, clause (*a*) of section 585 (*now* 527) of the Bill is unnecessary, and not only

unnecessary, but positively dangerous. The Local Government is never likely to appoint the Chairman to be a Collector for the purposes of land acquisition in Calcutta. It is inconceivable that the Local Government will lend itself to any proceeding the effect of which would be to make the Chairman a judge in his own case. It is inconceivable, for instance, that the Local Government would appoint the Manager of a Railway Company or anybody connected with the management of a railway to have anything to do with the acquisition of land for that railway. The thing would be precisely the same as the appointment of the Chairman for the purpose of acquiring any land for the Corporation. The Chairman is the executive officer of the Corporation; and he is to be made a judge in his own case. It seems to me impossible that the Local Government would do any thing of the kind; but here there is a section the effect of which would be to make the Chairman a Collector under the Land Acquisition Act for purpose of acquiring land for the Corporation, or to empower him to appoint somebody to perform these duties on his behalf. My hon'ble friend may say that the Chairman will never be the Collector, that he will never acquire any land himself. That may be the intention of my hon'ble friend, but every law must be interpreted according to the wording of the law. If my hon'ble friend says it is not intended that the Chairman is to be Collector in any case in which land is to be acquired in Calcutta, I ask him to point out the specific words which make that intention clear. If that is the intention, it ought to be clearly expressed in so many words. My hon'ble friend will probably say that the object is to expedite matters, and all that the Chairman will probably do will be to appoint some Deputy Collector to do the work under his direction; but what guarantee is there that the Chairman will not appoint one of his own officers to act for him—the Assessor, for instance, or one of his assistants? My hon'ble friend may say that it is not intended that the Chairman should appoint any one subordinate to him; but I venture to traverse even the last position taken up by my hon'ble friend. This matter was discussed in one of the Select Committee's meetings, and it was said that the Chairman would make the appointment instead of asking the Collector of the 24-Parganas to do so. But the person appointed by the Chairman will be subordinate to him; he will owe his appointment to the Chairman and feel himself under special obligations to him and will do his best to please the Chairman. I ask, is it right and proper in a matter involving proprietary rights that a person should be appointed to deal with such cases and be a judge in regard to them who would be

subordinate to the Chairman? I say that he should be absolutely independent. He ought not to owe his appointment to the Chairman; he should be perfectly free from any sense of obligation to the Chairman. The section is a dangerous one, one which is likely to be attended with abuse, and it has therefore excited the deepest apprehension, and we are bound to take note of such a feeling. The Bill has struck terror into the hearts of the people, and the land acquisition sections especially have excited the fears of the people—fears which may or may not be justified. But I have no hesitation in saying that it will be disastrous if this measure is thus heavily handicapped with the weight of adverse opinion and adverse sentiment. I hope my hon'ble friend will relieve the anxiety which at present fills the public mind in connection with these sections of the Bill. This is no exaggerated statement. It is no exaggeration of speech to say that this section and other sections to which reference will be made later on have filled the public mind with anxiety and alarm. These fears may be groundless; but there they are. My hon'ble friend may say that these sections are recommended by the Building Commission. I have not the smallest desire to belittle the work of the Building Commission; but these provisions were steadily opposed by the Indian representatives on that Commission. I have talked the matter over with one of the members of the Commission, and he gave me the assurance that these sections were opposed by the Indian members of the Commission. These recommendations are the recommendations of a majority of the Commission which was composed of European officials. I wish to speak of the officials of the land over whom Your Honour presides in terms of the highest respect; but they labour under a great disadvantage. They do not possess an acre of land in Calcutta, and I am afraid they are not in sympathy with the owners of property in Calcutta. But the representatives of property on that Commission strongly resisted the change made in the Land Acquisition Act. The dissentients represented the proprietary interests of the town, and further Your Honour has not accepted all the recommendations of the Building Commission. You have omitted part of their recommendations. I will read to the Council an important recommendation which they made and which has not been embodied in the Bill, but was rejected by the Government. It is to be found in page 40 of their Report. They there say:—

'We think power should be given to acquire a portion only of a house or manufactory or other building.'

[*Babu Surendranath Banerjee.*]

"That forms, and I think very properly, no part of this Bill. My first point is that the section now under consideration does not represent the unanimous opinion of the Building Commission; secondly, that it was opposed by the representatives of the landod interest on the Commission; and, lastly, my contention is that the opinion is of the nature of a very halting recommendation. The Building Commission made this recommendation in a hesitating and indecisive way; it is merely a suggestion, and I submit it should not be accepted by the Council, especially when it has filled the public mind with alarm; and further it should not be accepted when it makes the Chairman of the Corporation a judge in his own case. The Commission say:—

'In order to avoid a portion of the delay which inevitably takes place, we think the Chairman of the Corporation should be declared to be the Collector in all land acquisition cases within the Municipality; and, as it is unlikely that he would have time to perform the functions of the Collector, he ought to have power to delegate them.'

"Those are the terms in which the opinion of the Building Commission is expressed. In this connection I desire to point out that this is not the law in Bombay; it is not the law in Madras; it is not the law in vogue in any Municipality in the Province over which Your Honour presides; it is not the law in the North-Western Provinces; it is not the law in the Punjab, which in the opinion of Mr. Risley is the most advanced law relating to municipalities, but which in my opinion is the most retrograde. Therefore, we have the fact that this provision does not find a place in any municipal system in India. Nor is this all. It does not find a place in the English Public Health Act, to which my hon'ble friend in charge of the Bill is so fond of referring. Therefore, the position is this—that we are enacting into law provisions which are unique, unprecedented and unlike those of any legislative enactment in force anywhere. Where is the justification for such a provision? Where are those great delays which are said to have taken place in consequence of which it has become necessary to make the Chairman a judge in his own case? It will not do for my hon'ble friend to shelter himself behind the halting recommendation of the Building Commission. He is going to enact a law which is revolutionary in its character, which has no place in any corresponding legislation in any part of India or of the world; therefore, he must bring facts and figures to justify the passing of such a law. I am not aware of those facts and figures, and I am not prepared to rely on the recommendations of the Building Commission. That may be a factor in the consideration, but it is no justification for the law. The

[*Babu Surendranath Banerjee; Mr. Oldham.*]

strongest case is necessary to justify such a provision of the law, and I say no case has been made out. It is opposed to all the fundamental principles of justice. If my hon'ble friend says that the Chairman will not act himself, but will delegate his power to some one else, then I object, because the person to whom such powers are to be delegated will be subordinate to the Chairman, will be responsible to the Chairman, and whose strongest motive it will be to please the Chairman. This is a serious matter, and I ask the Council to pause before they pass a provision of such a revolutionary character. I will be content to leave the power with implicit confidence in the hands of the Government, because I know the Government will not do anything wrong, and will not lend themselves to any principle involving the violation of the principles of justice and equity; but the subordinate whom the Chairman might appoint to act for him may be so carried away by gratitude that he may act in a manner which may be opposed to justice. What is the safeguard? He may act from good motives, but in the exuberance of his zeal to support the Chairman he may not conform to the principles of justice. And where is the guarantee that the Chairman will restrain the excesses of his zeal? Therefore, I beg the Council to ponder carefully over the situation. This is a matter of great importance to the people of Calcutta. In the first place, you are going to enact a law which is not part and parcel of any municipal law; secondly, this provision is opposed to our sense of elementary justice; thirdly, no case has been made out for a provision of such a revolutionary character. All that you can appeal to is the Report of the Building Commission. This portion of the Report, however, was objected to by the representatives of the landed interest. The recommendations of the Commission in this respect are of an indecisive, halting nature. The Government itself has been obliged to disregard one of their recommendations of a somewhat important character. I submit that the recommendation to which my amendment refers deserves a similar treatment at the hands of the Council and of the Government."

The Hon'ble Mr. Oldham said:—"As the Hon'ble Mover of the amendment has said, the section to which he objects was inserted on the recommendation of the Building Commission. There were two Indian members on that Commission—Babu Kally Nath Mitter and Babu Nalin Bihari Sircar. Babu Nalin Bihari Sircar wrote a dissent which was published with the Commission's report. In that dissent he has not said a word about this proposal of the Commission. Babu Kally Nath Mitter did not at all object. He preferred

[*Mr. Oldham.*]

20 years' purchase to 25 years; otherwise he has not dissented from this proposal. I am perfectly certain that so sound a lawyer as Babu Kally Nath Mitter cannot have shared the misapprehension to which my hon'ble friend has just given expression in the language of unmistakeable panic. And that misapprehension is so wild a one that there is no course but to begin at the very beginning, and explain how the matter stands—what the scope and object of the Land Acquisition Act are. So far from the Chairman being a judge in his own cause, there are express provisions provided which will control anything an executive officer may do; and, so far from it being an objection that he is interested, it is recognised that he is an interested agent who has to make the best bargain he can. Under the Land Acquisition law there are three bodies —the Government, the District Collector, and the Civil Courts. In the place of the District Collector, another officer may be appointed. When he is appointed, the District Collector is completely ousted; so that there are only the Government, the Land Acquisition Collector and the Civil Courts. There is no provision for any controlling authority. The work is entrusted to the Land Acquisition Collector, who is always a selected officer, and his proceedings are departmentally controlled at every step; and as a matter of fact the Government Land Acquisition *bureau* is a very extensive one. It begins with the Collector of the district, who controls the proceedings and examines the records. Then there is the Divisional Commissioner, who examines the statements and the final awards. And there is the final control of the Board of Revenue, and under the standing rules the proceedings are not confirmed until the sanction of the Board of Revenue is given, and these rules are prescribed, not by the Land Acquisition Law, but under the authority of different Bengal Regulations. Here in Calcutta the other authorities are the Chairman of the Corporation, and in the case of railways the Railway Agents or Managers and the Consulting Engineers, all of them interested in land acquisition proceedings. They are not judicial authorities. As a matter of fact, as I read the law, this particular provision which has so much alarmed my hon'ble friend may be pronounced to be supererogatory, because it is fully within the authority of the Government to pass orders to the effect of this provision. The only reason why this provision is necessary is in order that the Corporation may know how it stands and to prevent the possibility of conflict with the District Collector. The Land Acquisition Department has no objection to this section as it has been drafted.

[*Mr. Oldham; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

"There is a further provision, which is a little peculiar, giving the Chairman power to appoint an officer; but, as this power has to be exercised subject to the approval of the Government, it would be outside the Land Acquisition Department's functions to say anything against it. They keep a register of officers who are fit for these appointments. The effect of passing this provision will be to oust the Collector of the 24-Parganas, who is the District Collector, and the only practical effect will be to prevent any dispute as to action, subordination, and the channel of correspondence, and to shorten the chain. It will not give any land acquisition jurisdiction to the Chairman, because the Chairman could not possibly carry on the duties of land acquisition himself, and a Land Acquisition Deputy Collector must be appointed. Then, according to the rules of the Land Acquisition Department, instead of corresponding with the District Collector at Alipore, he will correspond with the Chairman; then the matter will go to the Commissioner of the Division, and from him to the Board of Revenue. The appointment of an officer by the Chairman I put no stress on, because the Government takes the responsibility. The present rule is for the Department to keep a list of qualified officers and to send three of those names to the Government for selection."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Will the Government make the appointment?"

The Hon'ble MR. OLDHAM said:—"I do not think it necessary to answer, because the Hon'ble Member in charge of the Bill has just told me that he does not care to retain this provision, and I confess it is one which appears rather anomalous to the Land Acquisition Department. I am not defending this particular provision. I do not care if the officer to be appointed in that way drops out."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"That is precisely my amendment which awaits discussion."

The Hon'ble MR. OLDHAM continued:—"The only part which will be omitted will be the provision giving the Chairman power to appoint. The law reads in the very words of my hon'ble friend's amendment. As the law stands, it will be fully in the power of the Government to make this appointment without any special provision in the Municipal Bill, and the only object there could be for inserting such a provision is to clear up any doubt as to what power the officer may exercise under the old Regulations constituting the

offices of Collector and Deputy Collector. The effect of this sub-section will be otherwise simply to affirm the existing law. In all cases from the Corporation which come before me—and they have to come before me—I find that the Chairman has always been the person really interested in the actual proceedings; and the duty of the Collector of the 24-Parganas has been solely the routine duty of looking over the figures. It is quite impossible for the Government in operations involving so much cost to leave them to a single officer. Government has sometimes suffered severe loss owing to the want of discretion in the officer concerned. The Land Acquisition Officer's duty and power of conferring with the superior authorities all along the line is frequently exercised. It is not exercised within the area of Calcutta, because the Collector of the 24-Parganas knows nothing about the conditions of Calcutta, nor is it used in the case of the Commissioner of the Division except in special cases; so the work really comes straight from the Deputy Collector, guided by the advice of the Chairman, direct to the Board of Revenue, and great delay will be saved by appointing the Chairman a Collector under the Land Acquisition Act. For instance, in the case of excess over estimates which frequently occurs, the excess amount must receive the sanction of the Government, and in the case of land required to be taken up by the Corporation, it must receive the sanction of the Corporation. The case first goes to the General Committee, and then to the Corporation, who may take two months over it; it then goes to the Collector of Alipore, and so through a long chain it goes up to the Government till sanction is obtained. I think the Hon'ble Dr. Asutosh Mukhopadhyaya will be able altogether to allay the apprehensions of my hon'ble friend as regards the Chairman being appointed a judge in his own case. He can no more be a judge in his own case than he is at present. He is at present considered an authority whom the Deputy Collector must consult, and it is with his advice that the proceedings are carried on."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret to confess that I find myself in a hopeless maze, and I trust that some Hon'ble Member, who is more acute and more learned, will come to my help. I agree with the observations of the hon'ble mover of the amendment; but for the last half an hour I have been endeavouring in vain to discover the meaning of his amendment; I am wholly unable to understand it. What is the object of section 585 (*now* 557)? The object is to amend the Land Acquisition Act of 1894 so

[*Dr. Asutosh Mukhopadhyaya; Babu Boikanta Nath Sen.*]

far as may be necessary for the purposes of the Corporation; it says distinctly that any land or building which any municipal authority is authorised under the provisions of this Act to acquire shall be acquired under the provisions of that Act. Then comes clause (*a*), for which the Hon'ble Babu Surendranath Banerjee wants to substitute the following:—

'The expression "Collector" shall include any officer specially appointed by the Local Government to perform any of the functions of a Collector under the said Land Acquisition Act.'

"Now, let us look at section 3 of the Land Acquisition Act, which says:—

'The expression "Collector" means the Collector of the district, and includes a Deputy Collector and any officer specially appointed by the Local Government to perform the duties of Collector under this Act.'

"Therefore, the definition proposed by the Hon'ble Babu Surendranath Banerjee is identical with the definition given in the Land Acquisition Act; he professes to amend that Act, but simply repeats the language to be found there. His amendment, therefore, as it stands, is obviously tautologous and absolutely unnecessary. Suppose that the amendment is carried; it will not help my hon'ble friend. He protests that the Chairman ought not to be the Judge in his own case; but under the Land Acquisition Act the Local Government may appoint the Chairman to perform the duties of a Collector under that Act. I venture to think, therefore, that the amendment as it stands is meaningless and cannot be accepted, and I would ask the Council to accept instead my amendment that clause (*a*) of section 585 (*now* 557) be omitted."

The Hon'ble Babu Boikanta Nath Sen said:—"The wording of the amendment before the Council may not be satisfactory, but it cannot be said that it has no meaning. It has this effect—that it will exclude the Chairman from being appointed a Collector under the Land Acquisition Act. With regard to the second provision of sub-section (*a*) of section 585 (*now* 557), when the approval of the Local Government will have to be taken, when there is so much apprehension and sentiment, I do not see what will be gained by retaining it. I put the matter in this light. Is it sound to legislate when nothing particular is to be gained by it, and when on the other hand there is a strong feeling or sentiment on the other side? The decision of the Collector who will be appointed will not be final. The Municipality will not

[*Babu Boikanta Nath Sen; Babu Surendranath Banerjee; Mr. Baker.*]

gain anything by it. Other officers may be appointed directly by the Government. Why give power to the Chairman who will be at liberty to delegate his authority and whose appointment will have to be approved by the Government? I submit, therefore, on grounds of expediency, that it is desirable that this amendment should be accepted; but I think it will be much better if the Hon'ble Dr. Asutosh Mukhopadhyaya's amendment that clause (*a*) of section 585 (*now* 557) be omitted altogether be put first."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I desire to make a personal explanation. I cannot admit that there is any tautology at all. My position is this, that in place of this provision the general law of the land be inserted. If my hon'ble friend calls it tautology, I can only say that my notion of tautology is very different. Mine is a constructive amendment; my hon'ble friend's amendment is a destructive amendment."

The Hon'ble MR. BAKER said:—"I suggest the adoption of the following for clause (*a*) of section 585 (*now* 557):—"The expression "Collector" means also the Chairman of the Corporation of Calcutta.' That will get us out of all the difficulty, and will provide for the Chairman of the Corporation being ordinarily the Collector for the purposes of land acquisition in Calcutta, in the same way as the District Officer is the Collector ordinarily in a district. The effect will be to oust the Collector of the 24-Parganas. I had something to do with the taking up of land for the construction of the Harrison Road. I was absolutely ignorant of the subject, but it had to go up to me as Collector of the 24-Parganas and also to the Commissioner of the Division. We want to eliminate the Collector of the 24-Parganas and substitute a special officer under the Chairman, as it stood in the original draft of the Bill. Such officer will act generally under the guidance and control of the Chairman, who will be the 'Collector' in the manner and for the reasons explained by the Hon'ble Mr. Oldham.

"With reference to one remark of the hon'ble mover of the amendment that the Local Government will never think of appointing the Chairman to be a judge in his own cause, or the Manager of a railway for taking up land required for the railway, I may mention that the District Officer in Bengal is

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Oldham.*]

always Chairman of the District Board, and he is constantly employed for taking up land for roads and other purposes, and there has never been any complaint."

The proposal of the Hon'ble MR. BAKER that clause (*a*) of section 585 (*now* 557) should run thus:—

"(*a*) The expression 'Collector' means also the Chairman of the Corporation of Calcutta."

was accepted by the Hon'ble DR. ASUTOSH MUKHOPADHYAYA as being practically identical with the amendment moved by him, and was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE then, by leave of the Council, withdrew his amendment.

The Hon'ble BABU SURENDRANATH BANERJEE then moved that the following proviso be added to clause (*a*) of section 585 (*now* 557):—

"Provided that the Chairman shall acquire such land through a Deputy Collector who shall not be subordinate to the authority of the Chairman."

He said:—"I think it superfluous to make any observations in favour of this amendment, as I believe the principle has been agreed to, that a Deputy Collector is to be appointed by the Government, and is to be subordinate to the Collector. That principle being agreed to, I hope the Hon'ble Member in charge of the Bill will accept this amendment having regard to the public feeling which prevails with regard to this matter."

The Hon'ble MR. OLDHAM said:—"This amendment cannot be accepted. In the first place, the Chairman does not acquire land. The expectation is that the Deputy Collector will act under the guidance of the Chairman. Practically he is subordinate to the Chairman and will report to him. The effect of the provision just passed is that the Chairman will be appointed Collector, not under the Land Acquisition Act, but under the Regulations which create the offices of Collector and Deputy Collector and govern the relations between the officers so called."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"He may act under the Chairman, but he will not be subordinate to the Chairman in the sense we understand it."

[*Dr. Asutosh Mukhopadhyaya.*]

The motion being put, the Council divided as follows:—

Ayes 4.	*Noes 13.*
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Mr. Handley.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
	The Hon'ble Mr. Apcar.
	The Hon'ble Mr. Mackenzie.
	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHAYA, by leave of the Council, withdrew the motion, standing in his name, that in section 585 (*now* 557), line 3, for "may" be substituted "shall"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that clause (*a*) of section 585 (*now* 557) be omitted.

He said:—"I am afraid, Sir, that it may be regarded as somewhat ungenerous on my part that I should press this amendment for the total omission of a clause which has just been amended at my instance; but I believe that, if I had been permitted to move this amendment first, it would have saved us all this waste of time. I wish to point out that clause (*a*) is absolutely unnecessary. As it stands amended, it is to the effect that 'the expression "Collector" shall include also the Chairman of the Corporation of Calcutta.' Now, under the Land Acquisition Act, it is open to the Local Government (even without this provision) to declare that the Chairman is the Collector. This clause, therefore, is clearly superfluous, and my amendment, I hope, will commend itself to the Hon'ble Member in charge of the Bill who objected to several of my amendments on the ground that they were unnecessary. If what

is now intended to be enacted is included in Act I of 1894, surely it is needless to encumber the present law."

The Hon'ble MR. OLDHAM said:—"I said in my reply on the previous discussion that the enactment of this provision is not strictly necessary. It was inserted because it was recommended by Mr. Justice Trevelyan's Commission, and it will let people who are concerned know how they stand. And we defend it because of the possibility that without it a conflict may arise between the District Officer governed by the ordinary Revenue rules and the Chairman. I do not defend it on any other ground."

The Hon'ble MR. BAKER said:—"I think it can be defended on another ground. According to the Land Acquisition Act, the expression 'Collector' means the Collector of the district, and the definition goes on to say that it includes any officer specially appointed to exercise the powers of a Collector under the Act. Here we have it 'the expression "Collector" means also the Chairman of the Corporation of Calcutta,' and his position is defined by the same words as we used to define the position of the Collector of a district under the Land Acquisition Act."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"If that is intended, I am afraid the object in view has not been attained by the amended clause. The insertion of the words 'Chairman of the Corporation of Calcutta' in section 3 of the Land Acquisition Act does not make the Chairman occupy the same position as the District Collector."

The motion was then put and lost.

The Council was then adjourned to Monday, the 25th September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WIGLEY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 786G—300—28-2-1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Act, 1861 and 1892.

The Council met in the Council Chamber on Monday, the 25th September, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The Hon'ble MR. W. R. OLDHAM, C.I.E.
The Hon'ble MR. R. B. BUCKLEY.
The Hon'ble MR. G. W. BOLTON, C.S.I.
The Hon'ble MR. E. N. BAKER.
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
The Hon'ble MR. C. E. BUCKLAND, C.I.E.
The Hon'ble MR. F. F. HANDLEY.
The Hon'ble MR. F. A. SLACK.
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
The Hon'ble BABU JATRA MOHAN SEN.
The Hon'ble MR. T. W. SPINK.
The Hon'ble RAJA RANJIT SINHA, BAHADUR, OF NASHIPUR.
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
The Hon'ble MR. D. F. MACKENZIE.
The Hon'ble MR. J. G. APCAR.
The Hon'ble DR. ASUTOSH MUKHOPADHYAY, M.A., D.L., F.R.A.S., F.R.S.E.
The Hon'ble BABU BOIKANTHA NATH SEN.
The Hon'ble BABU SURENDRANATH BANERJEE.

THE CALCUTTA MUNICIPAL BILL.

SECTION 270A.*

The consideration of the Hon'ble Babu Surendranath Banerjee's and the Hon'ble Mr. Apcar's motion that section 270A be omitted was resumed.

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* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering is altered.

S. 270A is referred to by that number, as it was entitled—*vide* discussion, *infra*.

[*Mr. Baker; the President.*]

The Hon'ble MR. BAKER read a motion which the Hon'ble Dr. Asutosh Mukhopadhyaya proposed to bring forward, that the following sub-section be added to section 370A, namely:—

"(3) Rules made under this section shall as far as possible follow the provisions of the London Building Act, 1894, relating to party walls, with such modifications (if any) as the Local Government may consider necessary to adapt the said provisions to the circumstances of Calcutta."

The Hon'ble MR. BAKER said:—"I beg to refer to the amendments moved on Friday, the 22nd September, to section 370A, and to the discussion on the following day. This question, Sir, was adjourned on Saturday, 23rd September, in order to enable those of us who had taken particular interest in it to have an opportunity of considering it. We met yesterday—Mr. Oldham, Mr. Buckley, Mr. Handley, Mr. Apcar, Dr. Asutosh Mukhopadhyaya, the Secretary and myself; and we came to the conclusion that the amendment I suggested on Saturday had better not be accepted. That amendment was to the effect that in the place of the words 'confer and impose mutual rights and obligations' there should be substituted the words 'define and determine the mutual rights,' &c. We came to the conclusion that these words 'define and determine' would neutralise, or go some way towards neutralising, the effect of the section, because what is intended is not merely to define what the existing actual rights are, but to confer such new rights as may be necessary. In order to allay any public apprehension which may have arisen on the subject, I propose, at the suggestion of the Hon'ble Dr. Asutosh Mukhopadhyaya, to insert the following sub-section in the section, namely:—

"(3) Rules made under this section shall as far as possible follow the provisions of the London Building Act, 1894, relating to party walls, with such modifications (if any) as the Local Government may consider necessary to adapt the said provisions to the circumstances of Calcutta."

"We consider, Sir, that that is as far as we can reasonably go in the direction of meeting the views expressed by the Hon'ble Mr. Apcar. I am afraid it will not altogether meet his views, but at all events it gives a clear indication of the nature of the rules which it is proposed to frame. The amendment has been drafted in the name of the Hon'ble Dr. Asutosh Mukhopadhyaya."

The Hon'ble THE PRESIDENT said:—"The first motion in regard to this section is a motion of the Hon'ble Babu Surendranath Banerjee that the section be

omitted. The Hon'ble Mr. Apcar has a motion to the same effect, and I think the best plan will be to ask the Hon'ble Babu Surendranath Banerjee whether, after hearing this statement, he presses his motion, or whether he would like to hear any further statement from the Hon'ble Dr. Asutosh Mukhopadhyaya."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I will just say in connection with this matter that I deeply regret I am not able to accept the amendment, and will briefly indicate my reasons. The amendment, Sir, is to the effect that the rules under this section shall, as far as possible, follow the provisions relating to party walls in the London Building Act. Now, Sir, I am unacquainted with the London Building Act, and I think most Hon'ble Members here are in the same position. We have had no opportunity of considering the London Building Act, and to legislate upon the lines of that Act without knowing its contents is a proceeding which does not recommend itself to my mind. Standing here as a Member of this Council, I cannot allow myself to be associated with any law which is to be on the lines of an Act of which I know nothing. That is my first objection. In the next place, I object to the section because we are taking a leap in the dark. We do not know the London Building Act, and we leave to the Local Government the power, the entire discretion, of adapting the rules in force under the London Building Act to the circumstances and the conditions of this city. Sir, with all the respect which I feel for the Local Government, and especially for the Government presided over by Your Honour, I am not prepared to give a *carte blanche* to the Local Government in a matter like this, so intimately affecting the habits and conditions of life of the people of Calcutta. I am not prepared to give a *carte blanche* to the Local Government in regard to a matter which might hereafter prove a fruitful and prolific source of litigation. This is a difficult matter; it is a new law, and, that being so, we ought to tread on firm ground. We ought to know what we are doing, and we ought to know exactly what we are legislating about. But we do not know what we are legislating about. We do not know the London Building Act; we do not know how the Local Government will exercise the discretion which will be vested in it. I feel the greatest possible doubt and hesitation in accepting a proposal of this kind. My hon'ble friend says my anticipations cannot be realized. I can only express a pious hope that they will not be realized; but they are there, Sir,

[*Babu Surendranath Banerjee; Mr. Apcar; Babu Jatra Mohan Sen.*]

all the same. In these matters I am intensely conservative. I want to understand things before I proceed to act upon new suggestions. Therefore, Sir, I cannot allow myself to be identified with a piece of legislation which is really a leap in the dark and about which I know nothing; about which I am afraid my hon'ble friends know nothing (what do they know about the London Building Act?); and I am unable to give the Local Government a *carte blanche* in an important matter like this. I cannot record my vote in favour of this amendment."

The Hon'ble MR. APCAR said:—"Sir, I regret that I am unable to withdraw my opposition to this proposal. I am entirely opposed to this system of legislation; it is legislation by delegation, which to my mind is one of the most objectionable forms of legislation. So far as the London Building Act is concerned, I saw it in the hands of my hon'ble friend Mr. Buckley, but with its provisions and details I am entirely unacquainted. I press this on Your Honour that we should not legislate in the fashion that is proposed, but that this section should be withdrawn, and that, on such an early date as may be found convenient to the Council, there should be a short Bill introduced embodying such provisions as those who are experts in the matter think it is desirable should be passed into law. The building law of London is in the form of a statute, and, after a conversation with my hon'ble friend Mr. Buckley, I am not prepared to accept that. There is not sufficient material for legislation on the subject by this Council. I see no good reason why the present proposal should be adopted, and I certainly cannot withdraw the opposition I have offered to this section, which I think ought to be omitted from the Bill. If a law on the subject is considered to be necessary, the provisions should, I think, be submitted to the Council in the form I have suggested."

The Hon'ble BABU JATRA MOHAN SEN said:—"I also maintain the opposition I raised the other day. By this section we are going to introduce the provisions of the London Building Act, not by enactment, but by certain rules to be made by the executive of the Government. To this I take exception, and I agree with the Hon'ble Mr. Apcar that, if it is necessary to introduce these provisions in Calcutta, it is advisable that it should be done in the shape of an Act after proper discussion by this Council."

[*Babu Boikanta Nath Sen; Mr. Handley; Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

The Hon'ble BABU BOIKANTA NATH SEN said:—"Sir, I fully realize the anxious care that this Council has bestowed on the consideration of this section, but I regret to say I cannot support this amendment, simply because I am ignorant of the London Building Act of 1894. It would be stultifying myself if I were to say that the legislation should be on the lines of the London Building Act of which I know nothing. It is on this ground that I object to this amendment being passed."

The Hon'ble MR. HANDLEY said:—"I confess I do not quite understand the fears and apprehensions of Hon'ble Members. The section as it stood before simply gave the power to the Local Government to make rules at any time. They might make them now, they might make them six months hence, twelve months hence, or two years hence, or at any other time. It was decided after the consultation yesterday that the rules to be framed by the Local Government should follow generally the rules contained in the London Building Act."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I enquire if my hon'ble friend knows all about the London Building Act?

The Hon'ble MR. HANDLEY said:—No, I simply read these rules; but I take it this is a power which, as you and all the Members of this Council know, is reserved in almost every Act passed by the Local Government or by the Government of India. This procedure has been adopted in the Imperial Legislative Council for so many years that one can hardly remember when it was not the practice. No doubt Your Honour's Government will give these Hon'ble Members an opportunity of criticising the rules before they are enacted. What more can they wish to have? How can the Council object to rules which are not framed, but which will be in the future? These rules are to be framed, and when they are framed then surely there will be time enough to take objection to them on any particular ground which may be found. As it is now, all the section does is to give the Local Government power to make rules at some time or other. As I understand it, my hon'ble friends would deprive the Government of that power."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I cannot support this amendment on the simple ground that we are not in possession of

[*Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Oldham; Mr. Baker; Babu Surendranath Banerjee; Mr. Apcar; Dr. Asutosh Mukhopadhyaya.*]

the provisions of the rules of the London Building Act. I agree with the views of the Hon'ble Babu Surendranath Banerjee and the other Hon'ble Members who have spoken against the introduction of the section."

The Hon'ble MR. OLDHAM said:—"I put the matter in this light: a measure of relief is wanted; it will be still more wanted when the provisions of this Bill have become law. Government must be provided with that measure of relief. It does not know exactly what form it will take; it must be adapted to local circumstances, and meanwhile it pledges itself to follow the best and safest model in the world. That is all the reference to the London Building Act means, and in that view there is no necessity to be acquainted with details."

The Hon'ble MR. BAKER said:—"I am authorized to state that His Honour the President has been impressed by what has fallen from the Hon'ble Mr. Apcar and the Hon'ble Babu Surendranath Banerjee as to their fears regarding the effect of legislating upon this matter by means of rules only. His Honour thinks that the suggestion which has fallen from the Hon'ble Mr. Apcar that there should be a special Act to deal with this matter is one which may well be accepted by Government. His Honour has, therefore, directed me to state that the Government are willing to omit this section from the Bill on the understanding that during the cold weather an Act will be introduced to deal with the subject of party walls."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"We thank Your Honour for consenting to this."

The Hon'ble MR. APCAR said:—"I hope you will allow me to express my obligations to you."

The motion that section 370A should be omitted was then put and agreed to.

The last motion having been carried, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

(1) that at the end of section 370A, clause (*a*), after the word "party" the word "walls" be inserted;

[*Babu Jatra Mohan Sen; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

(2) that to section 370A the following be added:—

"(3) Rules made under sub-section (1) shall have the force of law and shall be binding upon all persons from the date when they may be published in the Calcutta Gazette;"

and the Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that at the end of section 370A, clause (*a*) after the word "party" the word "walls" be inserted.

SECTION 557.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clause (*b*) of section 585 (*now* 557) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (*b*) of section 585 (*now* 557) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Section 17 of the Land Acquisition Act is the urgency section of that Act, and I will read it. It is as follows:—

'In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice, take possession of any waste or arable land needed for public purposes.'

"It is now proposed to extend the operation of this section to unhealthy areas, subject to the reservation that the question as to whether it is an unhealthy area or not will have to be determined by a Magistrate. It comes, therefore, to this: that it is now proposed to extend the application of this urgency section to unhealthy areas, and they will be taken possession of under its provisions. Sir, I desire to point out a distinction between unhealthy areas and waste and arable lands. Upon waste and arable lands there can be no buildings or bustees. Upon unhealthy areas there will be bustees certainly, and buildings probably. No great hardship would be entailed upon anybody by giving effect to the provisions of section 17 in respect of arable and waste lands. But, Sir, it is very hard for the inmates of a bustee to be compelled to leave their homes within fifteen days after notice has been given of the intention of Government to take possession of the bustee or building. And, Sir, you provide for no further compensation so far as this particular matter is concerned. The inmates of the bustee or the inmates of the *pucka*

house are obliged to leave within fifteen days after notice has been given. They are put to serious inconvenience, and probably to a good deal of trouble and additional expense. You give them no compensation over and above the 15 *per cent.* which is the regular compensation under the law. Thus the two things stand upon a completely different footing. No hardship is involved in the case of arable and waste lands, but hardship may be involved in the application of this section to bustees and buildings which may be declared by a Magistrate to be located within an unhealthy area.

"And, Sir, I may say that I could understand the reasonableness of a proposal like this if it had been made 50 years ago. Calcutta at that time was a seething swamp—the nursing ground of malarious and other fevers. But within the last 50 years the great sanitary works which have been carried out have changed the sanitary condition of Calcutta altogether. Under the Act of 1876 and the Act of 1888, the Corporation was empowered to spend 1½ lakhs every year upon drainage works. The Corporation has spent a good deal more than 1½ lakhs a year. This has been going on from 1876 to 1899. The drainage works of the town have been completed, and the drainage works of the suburbs are being pushed on with vigour. Therefore, Sir, the justification for a drastic provision like this does not exist at the present moment, whatever might have been the justification for such a provision 50 years ago. I wish to put it to my hon'ble friend whether, when the Building Commission made the recommendation upon which this section of the law is based, they had in view any unhealthy area to which they intended that this section should be applied. I am prepared to go still further and ask whether they had in their minds any unhealthy area in the acquisition of which a section like this would be useful. Sir, we have got the opinion of the Building Commission, and I will presently read that opinion; but here in this Council, as I have said, I am not willing to trust to individuals. The opinion I value most is my own opinion, and that opinion formed after a careful consideration of facts connected with any particular issue. What are the facts, independently of the recommendation of the Building Commission, which justify a section like this? Has that Commission given us the facts? Have we got any facts at all? Is the Hon'ble Member in charge of the Bill prepared to give us the facts? Is the executive of the Corporation ready to give us the facts? Have the executive of the Corporation suggested that anything of this sort

should be done? If they have not done so, what is the *raison d'être* for a section like this? It would not do, Sir, to enact a drastic provision like this merely upon the recommendation of two or three experts. Those experts are entitled to respect, but we want testimony more solid—more substantial—than their opinion, and I should like to be placed in possession of any facts which would support the position taken up by the Building Commission. I will now read the recommendation of the Commission. At page 39 of their report they say:—

'As it is important that delay should be avoided in the acquisition of unhealthy areas, power to acquire them at once should be given to the Commissioners. These powers should only be given where the areas are declared to be unhealthy on the certificate of a Magistrate, granted after hearing any objections raised by persons interested. Provision should be made for the speedy service of notices to such persons and for an early hearing of their objections.'

"Well, Sir, this is the opinion of the Building Commission. The Building Commission seemed to imagine that all that has to be done for the purpose of the acquisition of land is to shorten the process by which land is to be acquired. But, Sir, a great deal more than that is required; funds are needed for the opening out of the congested areas. A large sum of money is needed, but where is that money to come from? Something like five crores of rupees would be required at a moderate estimate for opening out all the congested areas.

"And here, with all the respect which I feel for the Government of this country, I have a complaint to make against the Government. The Building Commission recommend certain financial and certain legal measures. The financial measures ought to precede the legal measures. We ought to have the funds before we change the law for the acquisition of land. Among the financial measures are these: that a tax should be imposed on jute; that the imposition of an *octroi*-duty should be seriously considered. Well, Sir, the tax on jute has not been imposed, and no proposal to that effect has been made by Government. I am afraid that even, if that proposal were made by the Government of this Province, most probably the Government of India would like that the tax on jute should be reserved to itself. Then, Sir, with reference to the *octroi*-duties, I had the honour to give notice of a motion; but Your Honour thought it your duty—and

[*Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

I have no complaint to make against your decision—to rule it out of order. Therefore, Sir, it comes to this, that the financial recommendation which the Building Commission has made has not yet been given effect to. The other recommendations of a legal character depend upon these financial proposals. If we have money, of course then we can acquire the land, and if, having the money, we meet with difficulties in acquiring the land, then the recommendations of the Building Commission may be given effect to and the process shortened. But we have not got the money, and the financial recommendations have not been given effect to. It seems to me, Sir, to be something like placing the cart before the horse to give effect to the legal recommendations before devising measures for obtaining the necessary funds. Let us have the money first, and then if we find that there is any difficulty in the way of the acquisition of land, if the process is found to be dilatory and inconvenient, the law might be changed. But, Sir, we have not got the money, and yet a drastic provision like this is sought to be enacted as the law of the land. I desire to point out further that there is no such provision in any municipal law with which I am acquainted. There is no such provision in the Bombay Act, or in the Madras Act, or in the English Public Health Act. You may ransack the municipal literature of the world, and I doubt very much if you will find any provision like this. Having regard to all these considerations, I think this provision is unnecessary, that it is drastic and inconvenient, and that no good and sufficient grounds have been made out for its introduction."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The amendment which stands in my name is identical with that just moved by my hon'ble friend, and it is desirable that I should say a few words in support of it. I entirely agree with everything that has fallen from my hon'ble friend Babu Surendranath Banerjee, and I believe that this provision will not only prove a source of irritation, but also that it will be practically useless. I have not the smallest doubt that the very first time this provision of the law is sought to be enforced, the Magistrate will have to go through a lengthy enquiry. People will resist to the utmost any attempt made to eject them summarily from their houses. Evidence will have to be taken, and I can assure the Council that, if the decision of the Magistrate happens to be adverse to the owners, it will be challenged in appeal, and the case will be dragged to the High

Court; and the very object in view, namely, to shorten the process by which land may be acquired, will be completely frustrated. A clause of this description, therefore, will not only lead to oppression, but will also promote expensive and needlessly vexatious litigation."

The Hon'ble MR. OLDHAM said:—"The Hon'ble Babu Surendranath Banerjee has quite rightly described the law on this subject and the manner in which the proposal originated. This section is for the purpose of enacting that in the case of unhealthy areas the provisions of section 17 of the Land Acquisition Act shall apply. The clause has been framed in accordance with the recommendations of the Building Commission, and the Building Commission's proposal was:—

'As it is important that delay should be avoided in the acquisition of unhealthy areas, power to acquire them at once should be given to the Commissioners. These powers should only be given where the areas are declared to be unhealthy on the certificate of a Magistrate, granted after hearing any objections raised by persons interested. Provision should be made for the speedy service of notices to such persons and for an early hearing of their objections.'

"In connection with what the Building Commission said on the subject, it is only necessary to add that this part of the report was concurred in by the two Indian members—Babu Kally Nath Mitter and Babu Nalin Behari Sircar; that is to say, Babu Nalin Behari Sircar did not mention it in his Note of Dissent, nor did Babu Kally Nath Mitter refer to it at all. My hon'ble friend, however, went on to say he doubted if any instance was present in the minds of the members of the Building Commission which could justify this provision, and he challenged the Hon'ble Member in charge of the Bill to bring forward such an instance. I do not think his hon'ble colleague the representative of the Corporation will bear him out in offering that challenge. In two areas which I could mention, according to the quarterly health reports which we receive, in the two wards represented by Entally and Kidderpore, the death-rate for the quarter is reported to be at the rate of about 50 to 60, and in one instance 70, per thousand instead of 20, or at most 25, as it should be. I would particularly remind my hon'ble friend of the moving speech made by Babu Bhupendranath Bose less than a month ago on the last occasion on which he sat on the Corporation. As it was the last occasion on which he would have the opportunity of speaking, he drew the particular attention of the Commissioners

to the perfectly deplorable state of affairs which prevailed in the area added to his own Ward No. 1. He quoted figures showing a most appalling rate of mortality due to fever and other diseases, and he called for the very earliest measures of reclamation and improvement to do away with this state of affairs. As regards the Hon'ble Dr. Asutosh Mukhopadhyaya's objection, it is one which I have not considered, but the proposal was made by Mr. Justice Trevelyan and by a Commission on which lawyers sat. My hon'ble friend opposite, the learned Legal Remembrancer, will be able to give the answer to that objection."

The Hon'ble MR. BAKER said:—"I should just like to add one or two words to what has fallen from the Hon'ble Mr. Oldham, who has kindly undertaken to deal with this matter. The Hon'ble Babu Surendranath Banerjee said that the operation of this section would be a cause of hardship to the people who were dispossessed. Well, Sir, in the first place, I would point out that these are the people whose unhealthy surroundings and unhealthy modes of living are the cause of danger to the people around them. Therefore I do not think they are entitled to much consideration. He also said we give no additional compensation. I am not prepared to admit that they are entitled to additional compensation, but in clause (*3*) of section 17 of the Land Acquisition Act, it is stated that the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees, if any, on such land, and for any other damage sustained by them and caused by such sudden dispossession; so that, in so far as they suffer injury or damage in consequence of the suddenness of their dispossession, they will be entitled to additional compensation. Then the Hon'ble Member said that during the last 50 years great sanitary improvements have been effected in Calcutta, and that the public health is much better now than it was then, and that, therefore, there was no justification for this, as he called it, drastic provision. But I would point out that there are still patches of Calcutta which are insanitary and unhealthy. The Hon'ble Mr. Oldham has mentioned two cases in point, and it will be noticed that the section only provides that urgency shall be declared in areas which are actually found to be insanitary and unhealthy. With reference to what fell from the Hon'ble Dr. Asutosh Mukhopadhyaya, I would observe that the procedure before the Magistrate would no doubt be a slow matter; but while that procedure is going on the Collector will be able to go on with the work

of taking up the land in the ordinary course, so that in no case can there be any time lost beyond what would have been lost under the regular procedure."

The Hon'ble MR. APCAR said:—"There has been a direct reference made to me, and, although I did not intend to take part in this discussion, I now feel bound to speak to this amendment. What presses upon me is this; that these proceedings depend after all on financial considerations, and if any authority outside the Corporation is to have the whole subject under their control, then it may happen that the finances of the Corporation will be placed in a difficult position if action is taken in consequence of outside interference. I do not altogether go with my hon'ble friend on my left as to the chronological order in which the proceedings are to be taken. I frankly admit the necessity of provisions being laid down to improve the sanitary conditions of Calcutta, and I am sorry that the Government have not yet undertaken any sort of reformation with reference to the opening out of these congested areas. But I hope that that may yet be done after all that has been said.

"I cannot altogether agree with the Hon'ble Mr. Oldham in what he has mentioned to the Council in regard to the two areas he spoke of. The Hon'ble Member in charge of the Bill has spoken of patches of Calcutta that are in an insanitary condition. It must be remembered that the patches which have been referred to are outside of the old boundaries of Calcutta. These areas have been under the control of other authorities than the Corporation: as a matter of fact, they have been under the control of Government itself until a late period. All that can be done has already been done by the Corporation as at present constituted, and they have not by any means been blind to their duty in improving insanitary quarters. So that I do not think any justification has really been shown for imposing this particular section upon Calcutta. Now I do not think, Sir, that the Corporation will be in the future (at least I hope not) any more wanting in their duty than they have been in the past, so that, if matters are left to take their own course, I have a confident anticipation that everything which may be required to be done will be done.

"Then my hon'ble friend referred to the speech of my industrious and able friend Babu Bhupendranath Bose, who has been one of the most useful Commissioners we have had. I think my hon'ble friend is not quite intimately acquainted with all the facts. What Babu Bhupendranath Bose complained of cannot possibly be made good under this section. The insanitary condition of

what is called the canal area, to which Babu Bhupendranath Bose referred, is due to flooding during the rains. The European citizens complain because, occasionally, for an hour or so in the rainy season, the quarters in which they carry on business are flooded. In the canal area some of the lower floors of the houses are under water for five, six, or seven days in the rainy weather. That is what they have got to suffer, and that, Sir, is, as our late Engineer told us, in consequence of the canalisation by Government when Sir Ashley Eden was Lieutenant-Governor of Bengal. Now, Sir, with reference to this particular matter the Commissioners have pressed upon Chairman after Chairman the necessity of having some scheme prepared in order to relieve these poor inhabitants who are being killed off by reason of the insanitary conditions under which they live. I know the Chairmen have given directions with regard to it, but up to this date I have not seen any scheme brought forward. So that with regard to such conditions as those to which my hon'ble friend Mr. Oldham has referred, this section, which will authorise the acquisition of land which is supposed to be insanitary, cannot have any effect whatever. We would not take up the whole canal area, and if we did so, it would still continue to be in an insanitary condition, because it is not by reason of the tenantry of the area that it is insanitary, but it is by reason of certain operations which have been undertaken by Government, and which cause great floods throughout the district. So far as that is concerned, I do not think my hon'ble friend's argument really holds good. With regard to other places, there is Ward No. 22, which my hon'ble friend has omitted to mention. It was a most insanitary area, which the Corporation improved without any compulsion from outside. These are matters, Sir, with which I am so familiar that I cannot help referring to them, and I think it is a little dangerous on the part of those who are less acquainted with them to bring forward such instances."

The Hon'ble MR. BAKER said:—"I rise to order, Sir; the only point before the Council is the question of urgency. We are not concerned with the question whether any particular area is to be taken up or not, but only whether, when it has been decided to take it up, we should apply urgency or not."

The Hon'ble MR. APCAR said:—"I am ready to bow to any ruling."

The Hon'ble THE PRESIDENT said:—"I think the Hon'ble Member was in order to give instances in reply to the Hon'ble Mr. Oldham, but whether it is necessary to give any further instances is of course another question."

[*Mr. Apcar; Babu Boikanta Nath Sen; Babu Surendranath Banerjee.*]

The Hon'ble MR. APCAR said:—"I was going on to show, Sir, that the provision of the Bill in this connection is uncalled for; since, if there are insanitary areas, they are not to be improved in a general way by proceedings under this sub-section; and further, the Commissioners in the past have, so far as their funds have permitted, been anxious to improve insanitary areas. But, in view of Your Honour's observations, I shall not pursue the subject further. Before I leave this question, I must warn my hon'ble friend that it is dangerous to touch upon subjects unless you are very intimately acquainted with them. All through, Sir, I am entirely in support of measures which will secure sanitary improvements. But in this particular matter I think there should be powers given to those who have the control of the finances. They have got to shape their policy according to the money that they have got in hand. If that is done, I will support up to the hilt urgent measures in order to acquire land which are insanitary; but my whole objection is that the question should be left to the decision of those who have got the control of the finances, who are concerned in administering these matters, and, in a question such as is covered by the section of the Bill under consideration, not by outside authority."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I venture to submit, Sir, that the acquisition of land without delay is not likely to be secured in a better way by these provisions than by those which exist under the Land Acquisition Act. The potentiality of this provision is deteriorated or weakened by the section itself. Is it to be a judicial enquiry or executive enquiry? Then there will be the usual procrastination or delay, whereas under the existing law the Chairman can at once move the Local Government; and I do not think there would be that amount of delay which will be involved if this section is incorporated in the law. The object therefore which the executive wish to secure by this section will be frustrated by the provision which has already been laid down under the Act. I think, if the executive would carefully consider it, they would find that the existing provision is much better, and would enable them to acquire land in a quicker way than that provided for under this section."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I desire shortly to reply to the observations which have been made by the Hon'ble Member opposite. My hon'ble friend Mr. Oldham has remarked that this part of the Report of the Building Commission has been concurred in by the Indian representatives on the Commission. They do not concur in it now

whatever they might have done at that time. One of the members is now distinctly opposed to this particular part of the Report and to other parts of it to which I shall call attention later on. Then, Sir, it is very apparent that my hon'ble friend the Member in charge of the Bill is in favour of granting additional compensation to persons being dispossessed of their holdings in bustees or buildings under the operation of this urgency clause, and my hon'ble friend seems to be of opinion that sub-section (*3*) of section 17 would cover cases of this kind. Sir, I am not a lawyer, but sub-section (*3*) requires that further compensation be given to the dispossessed parties in respect of arable and waste land, because the sub-section refers to arable and waste lands. Therefore, if you wish for further compensation to be given to persons in unhealthy areas which are not waste or arable land you must make sub-section (*3*) by special legislation applicable to this class of cases. That is the view which has occurred to me. It would be something for these poor people to get some compensation for their hurried dispossession, and that would be in accordance with the spirit of sub-section (*3*) of the Land Acquisition Act. Then, Sir, there was one observation made by the Hon'ble Mr. Oldham to which I desire to call attention. It was in regard to the speech made by the Hon'ble Babu Bhupendranath Bose on the last occasion on which he sat as a member of the Corporation. Babu Bhupendranath Bose, feeling that that was the last time he was to occupy a seat in the Corporation, made one of the most eloquent speeches ever heard at the meeting of the Corporation. He referred to the canal area in Entally, and in a most moving way called attention to the urgent necessity which existed for improving that area. But, Sir, what would be the remedy for the grievance he brought to notice? What would ensure the reclamation of the canal area. Not this section of the Bill. You want money. The financial consideration is the paramount consideration in the matter; the other is merely a subsidiary consideration. In this section you are anticipating a thing which ought to come later on. 'Finances first, drastic measures afterwards,' should be the motto of this Council. You have not got the money, and public opinion is alarmed. Public opinion would like to see the sinews of war provided before these drastic provisions are enforced. That is my view; and however that may be, Sir, I hope my hon'ble friend will accept his own principle that additional compensation should be given for hurried dispossession; and if he accepts it I hope he will accede to the extension of sub-section (*3*) to cases of this kind."

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, I regret to find that the objection to which I alluded has not been answered, probably because it has not been sufficiently appreciated. My hon'ble friend Mr. Oldham left my objection to be dealt with by the Hon'ble the Legal Remembrancer, and so it still awaits an answer. The Hon'ble Member in charge of the Bill said that, during the time the proceedings will go on before the Magistrate, the Collector will also proceed in the usual way; and, if the enquiry before the Magistrate be delayed, there will be no difficulty, as the land will be acquired in the usual way. This use of a double-edged weapon may sometimes expedite matters, but it furnishes no answer whatever to my objection that the system will lead to needlessly expensive litigation. It will be expensive not only to the people you want to dispossess, but also to the Corporation. You can take it as an unquestionable fact that every single attempt made by the Corporation to render people homeless under this section will be resisted to the utmost. The proceedings before the Magistrate will be contested to the best of the ability of the parties concerned, and after that the case will be dragged and fought out before the High Court. That was my objection, and no attempt has been made to answer it. I take it that the greatest misery you can inflict upon a people by the introduction of new laws is an increase of ruinous litigation. I must add that what has been pointed out by my hon'ble friend Babu Surendranath Banerjee about the payment of compensation is absolutely correct. Sub-section (*3*) of section 17 of the Land Acquisition Act applies only to waste and arable lands and lands acquired for purposes of a railway under an unforeseen emergency. This is manifest from the language of the sub-section read along with the two preceding sub-sections. It is clear, therefore, that, although the special powers conferred by section 17 of the Land Acquisition Act may be exercised in the case of unhealthy areas under section 585 (*now* 557) of the Bill, the persons who become homeless are not entitled to claim any additional compensation for sudden dispossession as is contemplated by section 17, sub-section (*3*). The unfairness of this needs no comment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I earnestly appeal to the Hon'ble Member in charge of the Bill to consider this matter."

The Hon'ble MR. BAKER said:—"I am not in order in speaking, Sir, but I think I may mention that sub-section (*3*) applies to both the previous sub-sections, and it lays down not only that compensation shall be given for damage

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; the President; Mr. Handley; Mr. Oldham.*]

to standing crops and trees on arable and waste lands, but that it shall also be given for damage sustained by reason of sudden dispossession."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sub-section (*3*), as I read it, refers only to waste and arable lands, and lands taken up for railways under certain specified exceptional circumstances."

The Hon'ble MR. BAKER said:—"I read it as bringing in the whole of section 17."

The Hon'ble THE PRESIDENT said:—"Will the Hon'ble Legal Remembrancer give us his views upon this matter?"

The Hon'ble MR. HANDLEY said:—"I am inclined to agree with the Hon'ble Member for the University. I think it must be read to apply only to arable and waste lands, judging from the wording of the sub-section, which runs:—

'In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions here contained.'"

The Hon'ble MR. BAKER said:—"The words 'any other damage' applies to both sub-sections. It says expressly 'under either of the preceding sub-sections.'"

The Hon'ble MR. HANDLEY said:—"Sub-section (*2*) refers only to land taken up for railways."

The Hon'ble MR. BAKER said:—"Yes, but the operation of that is made to apply by the clause in the present Bill to all buildings on land taken up by Corporation."

The Hon'ble MR. OLDHAM said:—"I may say that it is an absolute surprise to me to hear any doubt on the construction of this section."

[*Mr. Baker; Babu Surendranath Banerjee; the President.*]

The Hon'ble MR. BAKER said:—"If, Sir, there is any doubt, I am quite willing to add to this sub-section a clause to the effect that compensation should be paid for any damage sustained by persons by reason of their sudden dispossession. It certainly never occurred to me for one moment that this clause did not apply."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As there is a difference of opinion it will be better to add the clause."

The Hon'ble THE PRESIDENT said:—"Yes, I quite agree, and I think the Secretary had better consult the Hon'ble Member in charge of the Bill as to the terms of the clause."

The motions being put, the Council divided as follows:—

Ayes 6.	*Noes 12.*
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Apcar.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhytar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to clause (*b*) of section 585 (*now* 557):

"Provided that no action shall be taken under this clause without the sanction of the Corporation."

He said:—"If my hon'ble friend has any objection to the word 'Corporation'—and I am afraid he has—I will modify that and put in the words 'General Committee' instead of 'Corporation' to suit him if he can see his

way to accept it. It strikes me that it will be as well to provide an additional safeguard by obtaining the sanction of the General Committee. You bundle a man out of his house with all his belongings—his *lares* and *penates*—and I think in a matter of that kind the discretion of the individual should be controlled by the wider discretion of a competent body like the General Committee."

The Hon'ble MR. BAKER said:—"My hon'ble friend has overlooked the fact that the discretion is not in the hands of the Chairman, nor in the hands of the General Committee. It is with the Magistrate, and all that the Chairman has to do is to take the initial proceedings and put the application before the Magistrate. Surely it is not necessary to take anybody's sanction to do that."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I think I have been misunderstood. I am well aware that it is the initiation of these which is in the hands of the Chairman, but what I contend for is that no action should be taken without the sanction of the General Committee. The General Committee meet once a week, and then the sanction can be taken. No time will be lost. I think I have been somewhat misunderstood, and probably my hon'ble friend will now see his way to withdraw his objection."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that in section 585 (*now* 557), clause (*b*), line 4, before the word "Magistrate" be inserted "Presidency."

The Hon'ble BABU SURENDRANATH BANERJEE moved that clause (*d*) of section 585 (*now* 557) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (*d*) of section 585 (*now* 557) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (*c*) of section 585 (*now* 557) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If Your Honour has no objection, the Hon'ble Dr. Asutosh Mukhopadhyaya and I will move these two amendments. With Your Honour's permission I will begin. These two

[*Babu Surendranath Banerjee.*]

amendments have reference to section 23 of the Land Acquisition Act. That section is as follows:—

'23. (*1*) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market value of the land at the date of the publication of the declaration relating thereto under section 6;

secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

'(*2*) In addition to the market value of the land as above provided, the Court shall in every case award a sum of 15 *per centum* on such market value in consideration of the compulsory nature of the acquisition.'

"I read these various clauses in order to point out how scrupulously solicitous the law is in a matter of this kind in safeguard[illegible] private rights. This section deals with encroachments on private rights in the [illegible] rights. The spirit of the Legislature is that no harm whatever is to b[illegible] private rights in the name of public rights. In this connection I may re[illegible] you a decision of Lord Truro's which is given in Mr. Beverley's edition of the Land Acquisition Act. Lord Truro says:—

'These acts are to be deliberately expounded in favour of the public and strictly expounded as against the Government or the Company taking the land.'

"Therefore, Sir, the interpretation you are bound to give to the Land Acquisition provisions is to be liberal so far as the individual is concerned, but

strict so far as the public are concerned. But, Sir, I have no hesitation in saying that clauses (*c*) and (*d*) of section 585 (*now* 557) represent a sort of flank movement by which the present law is to be superseded. Clause (*c*) of the section says:—

'(*c*) The market-value of the land or building shall be deemed, for the purposes of clause *first* of sub-section (1) of section 23 of the said Land Acquisition Act, to be the market value according to the disposition of the land or building at the date of the publication of the declaration relating thereto under section 6 of the said Land Acquisition Act.'

"Then, Sir, supplementary to this we have in clause (*d*) the market value settled and fixed as being twenty-five times the annual value of the property. Well, Sir, clause (*c*) is in direct contravention of an important ruling on the subject. That ruling was given in the case of *Prem Chand Barral*, and was laid down by Sir Richard Garth, Chief Justice of Bengal, and by so eminent a Judge as Mr. Justice Macpherson. That ruling was as follows:—

'The fairest and most favourable principle of compensation to the owners was to enquire what is the market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it.'

"The Chief Justice and Mr. Justice Macpherson held in that case that to capitalise the present rental of the property at so many years' purchase was not always a fair way of arriving at the market value.

"Then, Sir, this is not a chance ruling, but the principle embodied in it has again and again been confirmed in a number of cases. Therefore, Sir, it comes to this: that we have got a ruling, concurred in by the highest Court in this land and confirmed by various other Courts; associated with it are some of the most illustrious names in the annals of British jurisprudence; and that ruling it is now proposed deliberately to set aside. And on what ground? I am only surprised that the Judge of the High Court who was President of the Building Commission should have lent his name to a proceeding of this kind. Because in one or two cases the valuations were exorbitant—they certainly were exorbitant—is that any reason why you should enact a law the effect of which would be to bring about a general undervaluation of property in this way? The best of laws, enacted with the most beneficent intentions, often miscarry. You cannot point to a single human institution which is not liable to be tainted with abuse in its practical application. Because in the case of

[*Babu Surendranath Banerjee.*]

Premchand Bural there was gross overvaluation, is that a reason why the Bengal Council should enact a law which will grossly undervalue the property of people in Calcutta? I hope Your Honour will set your face against legislation of this kind. It is opposed to the decisions and opinions given by some of the highest authorities to be found in the history of English law, and I trust Your Honour's Council will set its face against a piece of legislation of this kind. What is the justification for this legislation? The justification is the opinion given by the Building Commission, and I think here my hon'ble friend will not be able to say that there was absolute unanimity. I think my hon'ble friend will admit that so far as this opinion is concerned the two gentlemen who represented the landed property of Calcutta strenuously opposed this provision. I will read an extract from page 40 of the Building Commission's Report:—

'The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of *Premchand Bural and another* v. *The Collector of Calcutta*, I. L. R. 2 Cal. 103. The word "market-value" occasionally leads to difficulties. It is the price which a willing vendor might be expected to obtain in the open market from a willing purchaser. In the case to which we have referred, it was held that the fairest and most favourable principle of compensation to the owners was to inquire "what is the market-value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it." This expression of opinion has induced the Courts to assess lands at a price in excess of what owners would ordinarily have obtained for them in the market. We think it not unfair that for the purposes of land acquisition land should be valued according to its disposition at the time the declaration is made. In the opinion of the majority of us, if it be shown that, before the declaration is made, the owner had taken active steps towards a more favourable disposition of the land, and had spent money for that purpose, further compensation might be given to him, such compensation being based on his actual loss. The value which ought to be paid is the value of the land to the owner, and nothing more. It should, however, also be provided that, where the market-value is specially high in consequence of the property being put to a use which is unlawful or is contrary to public policy, *e.g.*, public gaming, the special circumstance shall be disregarded, and compensation shall be calculated on the sum which would be the market-value if the property were put to ordinary uses.

'In the opinion of the majority of us it should be provided that twenty-five times the annual value at which the property is assessed for the purpose of municipal taxation shall be

[*Babu Surendranath Banerjee.*]

presumed to be the market-value until the contrary is shown. This provision, however, should not take effect until the particular land has been re-assessed after the passing of the amending Act. Power should be given to re-assess for this purpose.'

"Well, Sir, I have not the smallest hesitation in saying that in some cases the market value if assessed according to this principle would mean loss to the Corporation, and in some cases—perhaps in many cases—it would mean serious loss to the parties concerned. Now take the case of Ballygunge. The day before yesterday, after the meeting of the Council was over, I went over to Ballygunge, and saw a friend of mine who has extensive landed property there. He is a lawyer of some eminence. I consulted him about these provisions, and he told me that there were properties in Ballygunge—gardens and so forth—which yielded only a nominal rent. He mentioned to me a garden of 5 bighas let at a rent of about Rs. 5 per month, or Rs. 60 for the year. The valuation would be 25 times 60; or Rs. 1,500. Now would that be a fair valuation for 5 bighas of land—would it not be a gross undervaluation? That is as regards gardens. As regards vacant houses there would be an undervaluation—and an undervaluation which would involve the grossest injustice to the parties concerned. I am inclined to make the same remark with regard to bustees. The value of bustees depends not so much upon the rent they yield as upon their eligibility for building sites. The people pay a great deal in excess of the annual income derived from bustees in order that they may use those bustees for building purposes. Therefore, by fixing the market value at twenty-five times the annual rental you do a positive injustice to a large number of people by undervaluing their properties, and on the other hand you will be putting the Corporation to serious loss. Therefore, Sir, taking into consideration all these circumstances, *viz.*, the gross injustice which a revision like this would entail in a large class of cases; the inequitableness of such a provision; the fact that this section of the Bill is opposed to the traditions of British jurisprudence and to the interpretation put upon the law by Judges both in England and this country; the fact that this section has created the greatest possible alarm based upon good grounds;—taking all these facts into consideration, I hope and trust that the existing law will be allowed to remain. No justification has been made out for any modification of the law. There might have been one or two cases in which there might have been undervaluations, but that is no reason why the law should be changed."

[*Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, the two amendments which stand against my name are practically identical with those moved by the Hon'ble Babu Surendranath Banerjee, and I think it will be convenient if I speak to them now. My hon'ble friend has, to some extent, anticipated me in the observations I had intended to offer, and I have no desire to weaken their effect by mere repetition. At the same time I do not wish to conceal the fact that when I first read section 585 (*now* 587) it seemed to me to be the weakest section in the whole Bill; I was, therefore, not a little surprised to find that the recommendations embodied in it were taken from the report of the Building Commission which was presided over by an eminent Judge of the High Court, and I am still consoling myself with the hope that the learned Judge is not really responsible for them, and that he was not one of the majority who signed the report which has just been read by my hon'ble friend. With all deference to the judgment of the majority of the Commission, they seem to me to be very weak and very halting recommendations. Let me read one statement; it is as follows:—

'The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of *Premchand Bural v. Collector of Calcutta* (I. L. R. 2 Cal. 103). The words "market value" *occasionally* lead to difficulties. In the case to which we have referred, it was held that the fairest and most favourable principle of compensation to the owners was to enquire "what is the market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it." This *expression of opinion* has induced the Courts to assess lands at a price in excess of what owners would ordinarily have obtained for them in the market. We think it *not unfair* that for the purposes of land acquisition land should be valued according to its disposition at the time the declaration is made. *In the opinion of the majority of us*, if it be shown that, before the declaration is made, the owner had taken active steps towards a more favourable disposition of the land, and had spent money for that purpose, further compensation might be given to him, such compensation being based on his actual loss."

"When I read this, the first question I am tempted to ask is, have the gentlemen who sign this report any notion that this so-called expression of opinion is not an *obiter dictum*, that the same view has commended itself to the Judicial Committee, that this is the law administered by all the High Courts throughout India, and that in an appeal from the Madras High Court the Privy Council have laid it down as the most equitable and fair view to be taken in these Land

Acquisition cases. (L. R. 20 I. A. 80.) But the report is careful to add that only a majority of the Commission is responsible for this recommendation, and I still console myself with the hope that the learned Judge who presided over the deliberations of that body was in the minority. My hon'ble friend has pointed out that the effect of this section will be to introduce a provision which will nullify what has been the recognised law since 1876, for that was the time when the decision by Sir Richard Garth and Mr. Justice Macpherson was pronounced. But let us not forget that, if this introduces a sweeping change, its operation will also be extremely anomalous; for, remember, it will not nullify the law outside Calcutta; it will not even nullify the law entirely in Calcutta; it will only nullify the law in Calcutta when a property is to be taken up by the Corporation. Suppose the East Indian Railway or the Eastern Bengal State Railway, or the Bengal-Nagpur Railway, or the Calcutta Port Trust, or the Government of Bengal want to acquire land for public purposes—these provisions will not be applicable; the law laid down by Sir Richard Garth will still be the law. Now is that a reasonable state of affairs? I affirm, without hesitation, that, if these changes are to be introduced, the most prudent course to follow will be to get the Imperial Legislative Council to amend the Land Acquisition Act.

"But, apart from these anomalies, let us examine the matter critically for a moment and see what it is that is intended to be done. Clause (*b*) provides that the market value of the land or building is to be taken according to the disposition of the land or of the building on the day of the publication of the declaration relating thereto under section 6 of the Land Acquisition Act. Let us illustrate the position by a concrete case. I have five bighas of land, four of which are let out and one bigha is lying waste. The Corporation of Calcutta is pleased to take up that plot of land. Am I to be told that because this one bigha is lying waste they are to pay me nothing for it? That was precisely the contention of the Government of Madras in the case I have just referred to. The Government of Madras wanted to take up a hill side on which there were some ancient monuments of considerable historical and antiquarian interest. The question arose how was the hill side to be valued? There were no data for ascertaining the market value, for, admittedly, the hill or anything like it had never been sold. The only way that ingenuity could devise was to base the calculation on the actual profit derived from the hill side. It was found that as a matter of fact a portion of the hill side was let out, and the rental derivable from that portion was Rs. 120. The contention of the Madras Government

[*Dr. Asutosh Mukhopadhyaya.*]

was that they were entitled to take up the entire hill side upon payment of a sum which represented the capitalised value of this annual rental of Rs. 120. That contention of the Madras Government found no favour with the District Judge, who proceeded upon the basis of the possible rental for the whole of the hill-side and not upon the basis of the actual rental received for the part let out to quarrymen. This view of the District Judge was approved by the Privy Council, and the method was described to be the best, if not the only one, for getting at the market value of the ownership. I must confess, Sir, that I have not yet heard any reason, good, bad or indifferent, why we should change a system which not only accords with common-sense, but is also supported by an authority of so high a character. Let us now take another illustration. I have a plot of bustee land which is let out to tenants from year to year. If it continues to be used as a bustee, it will bring me in perhaps Rs. 2 per cottah. If it is used as a building site it will be sold for Rs. 500 a cottah. Am I to be told that the Corporation are entitled to take up this land by paying me the capitalised value of a rental of Rs. 2 per cottah? These concrete cases, more than any abstract discussions, serve to bring out forcibly the absurdity of the proposed system, and further illustrate the danger of legislating without due advertence to the mischievous consequences which may result in a variety of actual instances. I entertain no doubt as to what would be the inevitable fate of propositions like these if they were attempted to be incorporated into the statute book in any other legislative assembly.

"I now purpose to discuss the provisions of clause (*d*), which provides as follows:—

'The market value of the land or building shall, until the contrary is shown, be presumed, for the purposes of the said clause *first* of sub-section (*1*) of section 23, to be twenty-five times the annual value of the property, as entered in the assessment book prescribed by this Act.'

"I can well anticipate that my hon'ble friends to the right will say that this is not a matter of vital importance, as it does not purport to embody any hard-and-fast rule of law, but simply introduces a rebuttable presumption. That looks very fair at first sight, but it is, or at any rate ought to be, well known that it is one of the elementary principles of jurisprudence that you ought not to introduce into the statute book a presumption which is untrue

in the majority of instances. I hope you will not be surprised if I undertake to prove to you in the course of a few minutes, if you will bear with me so long, that this presumption really bears that character.

"Now let us turn for a moment to section 148A (*now* 150), which defines the principle upon which annual value is calculated. We had an animated debate upon that section, and we may, all of us, be presumed to be familiar with its provisions. It will be remembered that it deals with the assessment of all classes of buildings. Clause (*a*) deals with buildings erected for letting purposes; clause (*b*) deals with buildings not erected for letting purposes and not ordinarily let. Take clause (*b*) first. Suppose the Corporation wishes to take up a building erected last year for Rs. 10,000 and which comes under clause (*b*). It has been assessed by the Corporation on the estimated present cost of erection, 5 *per cent.* upon which is Rs. 500; that is the annual value entered in the municipal assessment book when the Corporation proposes to acquire it under this section. The Corporation has to pay twenty-five times Rs. 500 or Rs. 12,500. Now, in the name of common-sense, I ask why this presumption is to be introduced into the law so that the Corporation is forced to pay more than it would otherwise have to pay? In every single case under clause (*b*) this presumption will operate to the disadvantage of the Corporation. I, therefore, affirm without hesitation that you ought not to introduce into the law a presumption which will be untrue in all the cases covered by sub-section (*b*) of section 148A (*now* 150).

"Let us now turn to clause (*a*), which deals with the case of buildings erected for letting purposes: in such a case you will remember that it is not the actual rental which is the basis of the valuation, but it is the rental paid by the hypothetical tenant to whom it is imagined to be let from year to year. Now a building which is fifty years old and a building which was erected yesterday may be let probably for about the same sum to tenants from year to year. If I rent a house for a year, whether the house is fifty years old or whether it was built yesterday, is just the same to me, provided it is in a good state of repair. The monthly rental may be the same for a house built yesterday and a house built fifty years ago, but the market value of the houses would be widely different. Old houses would probably require substantial repairs every two or three years, and, at no distant date, may have to be entirely taken down and rebuilt; therefore, no one will pay the same amount for an old house as

for a house built yesterday. Now, is it soberly and seriously intended that the same value should be paid by the Corporation in both cases? My hon'ble friends will say that the section does not say so; it embodies only a rebuttable presumption. I know what a presumption means in the hands of Judges and how imperceptibly it tends to crystallise into a rigid, inflexible rule of law. The litigant who is called upon to negative it, indeed, finds himself in an unfortunate position. I ask, again, why do you say that it is absolutely necessary to place a presumption upon the statute book which will be proved to be untrue in the majority of cases? It has not been proved, it has not even been alleged, that any necessity for such a provision has been felt. The Hon'ble the Legal Remembrancer possesses, I believe, the widest experience in Land Acquisition cases, and I feel sure that he will bear me out when I say that he has never had the smallest difficulty in determining the market value of a building in the hundreds of cases which have come before him under the law as it stands at present. I am certain, Sir, that this presumption if introduced into the law will be a fruitful source of mischievous litigation, and will needlessly involve the Corporation in a ruinous and lamentable waste of their funds."

The Hon'ble MR. OLDHAM said:—"Owing to the very unexpected turn the argument has taken, my reply to this amendment must be quite distinct in regard to clause (*c*) and clause (*d*). I will first premise the observations I am about to make by saying that no one can complain that the maxim quoted by the Hon'ble Babu Surendranath Banerjee from Lord Truro has not been very fully observed by the Courts in this country, because the scale of compensation which has been allowed has certainly not erred on the side of stinginess. The other day the Hon'ble Babu Surendranath Banerjee told us that he was a citizen first and a member of the Corporation afterwards. In this particular instance he has shown himself to be a member of the Corporation first and a citizen afterwards; for it is the citizens who will have to pay. This section is, I may frankly admit, a deliberate attempt to change the law. Whether, as the Hon'ble Dr. Asutosh Mukhopadhyaya says, the law will only be changed for the Corporation, and that the Port Trust, the East Indian Railway, the Eastern Bengal State Railway and the other Railways will continue to acquire land under the present law, does not, as I understand the matter, affect our deliberations. Those bodies must look out for themselves. If the law is changed for the Corporation, the Corporation will be so much the gainers. Perhaps if I read out in a tone of approval the

extract from the Building Commission's Report which my hon'ble friend Babu Surendranath Banerjee has read out in such a denunciatory tone, it may have a somewhat different meaning to the Council. My hon'ble friend wanted to infer that this opinion was not concurred in by the Indian members of the Commission because it was expressly said to be the opinion of the majority. Well, all I can say in that connection is that in his elaborate Note of Dissent Babu Nalin Behari Sircar does not once refer to the subject, and I do not think the inference which my hon'ble friend has drawn can follow, because I find that as regards section E the only dissentient member was the Hon'ble Mr. Glass."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Babu Nalin Behari Sircar himself told me that he was opposed to it."

The Hon'ble MR. OLDHAM said:—"Yes, but I am speaking now with regard to the inference drawn, so that I am not sure that the dissentient might not have been Mr. Risley himself. However that may be, what the Commission said was this:—

'The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of Premchand Bural and another *v.* The Collector of Calcutta, I. L. R. 2 Cal. 103.'

"My hon'ble friend has himself admitted that the compensation awarded in *Premchand Bural's* case was outrageously excessive. It is solely with the object of saving the citizens from such outrageous excesses that this provision is proposed.

"As regards the case of Ballygunge cited by my hon'ble friend Babu Surendranath Banerjee, I do not understand that the law will be interpreted as he surmises it would be. But after all the owners of land in Ballygunge cannot demand that the citizens of Calcutta should have to pay for their land the utmost possible prospective value which it might some day possibly be worth. It must be taken at a reasonable value; it must be taken at its immediate and probable value in the market. The market value still remains the standard. I am not prepared to affirm, Sir, that I can incontrovertibly defend the somewhat stringent words with which this clause ends after the very strong case made out against them by the Hon'ble Member for the University, although I am not wholly

convinced by his arguments. Take the case of the five bighas, where one in the middle was waste and four let to tenants. I think that the owner would be able to show his intention with regard to that middle piece of land, and that the value would have to be assessed according to his reasonable and manifest intentions. However, as I have said, I am not an out-and-out advocate for the concluding words of this clause.

"As regards clause (*d*), Sir, which presupposes the presumption of twenty-five times the annual value, I am in agreement with my hon'ble friend. The proposals of the Building Commission on that subject were that twenty-five times the annual value should be taken as perhaps the best rough-and-ready means for arriving at an assessment. The Hon'ble Mr. Glass thought that twenty-five times the annual value was excessive, while Babu Kally Nath Mitter thought twenty-five times would be too low. I remember the Hon'ble Mr. Turner said in Select Committee that in his experience twenty times the annual value would be the proper amount, and the answer given to that was that he was probably thinking of joint holdings and of a house standing on land as well as the value of the land. We agreed as a sort of compromise to have twenty-five times the annual value, thinking we were meeting the wishes of our colleagues, the Indian members. In the course of my experience twenty-five times has never been exceeded in any land acquisition proceedings. If anything over twenty-five times came before the land acquisition authorities, they would immediately ask for an explanation. I think that perhaps twenty times would be a fair substitution as suggested by the Hon'ble Mr. Turner. As regards the rule, the Hon'ble Member for the University has already set us an example in his amendment the other day. I refer to his amendment to section 347A (*now* 357). It was intended to provide how an annuity payable by the holder of land belonging to a Corporation was to be capitalised, and the Bill provided for its being capitalised according to its actual value. My hon'ble friend suggested as a rough-and-ready working rule 25 years' purchase. The Hon'ble Member in charge of the Bill conferred with me on the subject. We thought those were rather favourable terms, and, though probably a little below the actual value, we thought it desirable to accept them. The forming of a working basis by legislating with a presumption of this sort is very desirable. In this connection I would like to ask my friend the Hon'ble Babu Surendranath Banerjee's attention to the Land

Acquisition Act itself. The provisions under which the officer, regarding who ıe expressed such genuine panic on Saturday, can act, are contained in sectic 11, and section 11 only obliges him to award the compensation which in h ›pinion should be allowed. It is section 23 which lays down more preci ›onditions which are to guide the Courts and to limit the Court's judgment i he matter. The working plan as it has been in practice is very much thi The Land Acquisition Deputy Collector works in constant dread of the Civ Courts. If a reference has to be made to the Civil Court, and if the Civil Court ward is different to what he proposed, that result is a reflection on h haracter and discretion; so that he has constantly to ask himself what th Civil Court will do in such and such a case. So that if twenty times—c whatever the figure which the Council may ultimately agree to adopt—is inserte in section 585 (*now* 557) of the Bill which does not directly affect or govern th proceedings of the Land Acquisition Deputy Collector, he will constantly hav to bear it in mind, because he has constantly to ask himself what the Civ Court will do. He will know that the Civil Court will have this presumptio before it, and he will have a fair starting point, and it may be assumed tha twenty times will be almost invariably taken as his basis. Whether that i too high a basis is a point for the members of the Corporation to consider an discuss."

The Hon'ble MR. HANDLEY said:—"I should like to say a few words, as th Hon'ble Member for the University has appealed to me. I can certainl support what my friend has said on the point that the Civil Courts have n difficulty in ascertaining the market value of land. The only point is that i takes some time and a great deal of expense both in the Civil Court, and subse quent to appealing. As I understand this section, it is intended to try and d away with all that delay and expense of litigation by furnishing a rough an ready presumption of 25 years' purchase, and, more over, the Hon'ble Membe must have seen that it says 'until the contrary is shown.' So that it stil leaves it open to the Civil Court to determine what may be the actual marke value of the land. In the proviso there is a safeguarding of the interests of the occupier or owner when it says:—

'Provided that this presumption shall not be made in respect of any land or building until a re-assessment has been made after the commencement of this Act, for the district in which such land or building is situated.'

[*Mr. Handley.*]

"So that the intention is to give the best value of the land at that particular moment, but as regards the first clause (*c*), there is certainly a good deal to be said on both sides. The Hon'ble Mr. Oldham has told us that the executive rather dread the decision of the Civil Court. I am not sure that it is so. On the other hand, the public whose lands are taken may not be thoroughly satisfied with the result, and, whatever that result may be, either party has its remedy. If the Collector thinks that the Civil Court has given too much, he has his remedy of appeal just the same as the claimant has if he considers the Civil Court has given him too low a value. So that, if the Civil Court goes wrong, either party has a perfect right of appealing to the High Court; but as regards this particular wording, to which the Hon'ble Member has taken such exception, the Hon'ble Mr. Oldham said that this was specially introduced to meet the difficulty in *Premchand Bural's* case. In that case it was said that to capitalise the present rental of the property at so many years' purchase was not always a fair way of arriving at the market value. Nor do I think that in practice you will meet with much difficulty. The cases to which my friends have referred, not only *Premchand Bural's* case but the *Harrison Road* case and the case of *Monindro Nath Chatterjee*, must be well-known to many, and also the case that occurred the other day, the extension of the General Hospital. In that case there was a filthy bustee occupied by sweepers and cowherds with their buffaloes, and when this bustee was removed and the case came into Court, the first witness that stepped into the box was an Engineer, and he produced a beautiful plan on paper with most beautiful residential houses for Europeans which he said might be let at Rs. 300 or Rs. 325 a month, and on this basis they advanced a most enormous claim to this land. At that time this ruling would apply to them, and I may say I myself decided that case, and this principle the Hon'ble Member for the University says will be brought in into the system. I am glad it will, because I do not quite follow the rule in *Premchand Bural's* case, so that he will have an opportunity of seeing that question soon decided. In *Premchand Bural's* case, as well as I remember, just as in the *Harrison, Road* case and in *Chatterjee's* case, there were some active steps taken, as the Building Commission says, to improve the property. In *Aghore Nath Chatterjee's* case, the parties laid the foundations and were going to build a huge lodging-house. It was on that basis that such a very large award

was given by the District Judge. In this case of the Hospital extension nothing whatever was done. No active steps had been taken; nothing was shown that such an idea had entered the mind of the owner to build such residences on that land; and, if you do not draw a line somewhere, you might take up a bustee and the parties might come forward with beautifully drawn plans and say they were going to start a jute mill and ask for compensation upon the scale of possible profits on the jute mill with so many looms. Where are you to draw a line? This, I understand, was the idea that was in the mind of the Building Commission, that if an owner really had shown a disposition by taking active steps to improve his property, then that would be taken into consideration in awarding compensation. But if he had done nothing whatever than claim what we call a fancy price, how are you to estimate such a disposition as that when he comes forward with a plan showing he is going to start a jute mill or a cotton mill or residential houses or even the Bengal Club there? Any proposition of law might be put forward in the Courts, and if they were to take *Premchand Bural's* case in its widest meaning, the Court might be bound to give compensation on that scale. Therefore, I understand, this limitation is particularly against that: 'the disposition at the time it is purchased,' that is, such purpose to which it might reasonably be put or to which the owner had such intention of putting it: not a fancy idea that might arise when the land was taken up by Government to enhance its price and to put a fictitious price upon the land by getting up some scheme which never had any existence before except perhaps on paper."

The Hon'ble MR. BAKER said:—"When the Hon'ble Members who moved these amendments were dealing with clause (*c*) they referred to the inadequate amount of compensation that would be paid on account of gardens and waste or unoccupied land. The Hon'ble Babu Surendranath Banerjee referred to the case of a piece of garden land in Ballygunge, which he said actually brought in Rs. 5 a month or Rs. 60 a year, and he said that, if clause (*c*) was allowed to stand, the owner would only get compensation on that basis. The Hon'ble Member for the University referred to a case which occurred in Madras about some hill which was absolutely waste, and he wished to know whether Government would be entitled to take it up practically for nothing, because it brought in nothing to the owner. Now, Sir, the answer in both those cases is that they would be governed not by clause (*c*) but by clause (*d*). In the case of the

garden at Ballygunge, the Hon'ble Member who referred to it did not tell us what the annual value was as entered in the municipal assessment register. Now, under clause (*d*), the presumption is that the compensation to be paid is twenty-five times, not the actual letting value, not the actual return for the moment, but twenty-five times the annual value, as ascertained by the Municipal Assessment Department and entered in the assessment register. This is an entirely different thing. The actual annual value and the actual letting value of houses may be an entirely different thing from the annual valuation as determined by the Municipal Assessment Department."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As a rule the actual letting value is the annual value."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee is right. As a rule the actual letting value is the same as the rent paid by the hypothetical tenant, but in exceptional cases that is not so, and the cases that he has mentioned are precisely cases of that exceptional nature. As regards waste land unoccupied in the heart of the city, no one will for one moment pretend that although they are bringing in nothing to their owners at present, they are, therefore, worthless, and they are certainly not entered at *nil* in the municipal assessment register. The Hon'ble Dr. Asutosh Mukhopadhyaya referred to the case of two houses, a new house and an old house of 50 years old. Both of these may be letting for the same rent at the same moment; they may both let for Rs. 100 a month. He asked the Council whether it would be right that the same compensation should be paid for the old house as for the new one? That is exactly a case of the kind which was covered by the decision the Council came to under section 148A (*now* 151). The annual valuation of the old house will be less than the annual value of the new house, and, therefore, the amount of compensation payable under clause (*d*) of this section will be greater in the one case than in the other.

"Then, Sir, the Hon'ble Member for the University pointed out that this 25 years' purchase presumption would operate unfavourably towards the Corporation in some cases, and he instanced the case of residential houses which was dealt with so thoroughly the other day. The Hon'ble Member is perfectly right. It is quite true that in those cases the number of years' purchase ought to be 20 years and not 25 years. It will be within the recollection of the

Council that, when we were dealing with the determination of the annual value of residential houses, I produced letters which had been sent to me by Messrs Mackintosh Burn and Company and Messrs. Mackenzie, Lyall and Company and I showed to the Council that the annual return on house property in Calcutta was somewhere about 5 *per cent.* or a little more; and the Council accepted that view, and decided that the annual valuation of residential houses should be taken to be 5 *per cent.* on their estimated present cost of construction. Now to invert that decision, or to express it in a different way, the result of that is that the capitalised value of the annual valuation is 20 years' purchase; that is to say, it is twenty times the annual valuation as entered in the assessment register; and, Sir, I think the Council would be perfectly justified in following Mr. Oldham's advice and substituting 20 years for 25 years in clause (*d*). I imagine that the Hon'ble Member who moved this amendment would probably oppose any alteration of that kind. Babu Kally Nath Mitter said before the Building Commission that 30 years should be given. Why? He has given no reasons. The only reason why we should be justified in giving 25 years' purchase or taking that as the presumption is in order to soften the severity of the law of land acquisition. We know that in Calcutta there is a strong prejudice against giving up and being deprived of one's ancestral house, and it is a feeling which the Legislature will do well to take into consideration. I think that we ought not to reduce the number of years' purchase below 25, not because it would not be absolutely just, but because it would be felt as a hardship; but to give anything more than 25 years would be, I think, unfair to the rate-payers and unfair to the Corporation."

The Hon'ble MR. BOLTON said:—"The ruling in the case of *Premchand Bural* was passed under Act X of 1870, which provided for taking the market value as it stood at the time of awarding compensation for the land. There is necessarily always an interval between the declaration that the land is to be acquired and the time of the award, the interval often extending for many months. During that interval owners of properties declared for acquisition had the opportunity of making various fictitious arrangements for the purpose of establishing a claim to higher compensation at the time of the award. The High Court had thus before them the fact that the law allowed the owners to make dispositions of their property before the award, when they delivered their judgment in *Premchand Bural's* case, and it is presumably for this

[*Mr. Bolton; Babu Surendranath Banerjee; Mr. Baker.*]

reason that they ruled that such dispositions should be taken into account. The law was, however, amended by Act I of 1894, and in the first clause of section 23 it is provided that the market value shall be that value at the time of the declaration for acquisition. Owners can, therefore, no longer make dispositions of their property after that date, and the High Court's ruling has apparently ceased to apply. A fresh ruling under the new law should be awaited. The Building Commission might, indeed, have dispensed with recommending the provision under discussion, because section 23 of Act I of 1894 now to a great extent meets what they propose; that is, the market value is to be the value at the time of the declaration, and not at the time of the award. They apparently, however, desired to emphasize the fact that any disposition of the property subsequent to the declaration should not be taken into account in awarding compensation, and, as serving that purpose, I think that the present provision should remain in the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I quite sympathise with those remarks that the public ought not to pay for any malpractices on the part of a person with a view to raise artificially the value of the property. Therefore, the compensation ought to be paid upon the value of the property at the time of the declaration. If that is the intention of the section, why is it not specified?

The Hon'ble MR. BOLTON said:—"That is stated in the Land Acquisition law itself."

The Hon'ble MR. BAKER said:—"It is expressly stated in clause (*c*) of section 585 (*now* 557) of the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"What would 'disposition' man?"

The Hon'ble MR. BOLTON said:—"The Building Commission apparently took the term from the ruling in *Premchand Bural's* case for the express purpose of protecting the Corporation from awards based on that ruling."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Is it not covered by section 23?"

[*Mr. Baker; Mr. Bolton; Babu Jatra Mohan Sen.*]

The Hon'ble MR. BAKER said:—"The words 'disposition of the land or building' mean the manner in which the land or building is being used. It is not a question of the date. The date is settled."

The Hon'ble MR. BOLTON said:—"Another provision of the present Act may be mentioned in support of the Building Commission's recommendation. It will be seen that section 24 of the present Act specially provides that the Court shall not take into consideration in awarding compensation any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired, that is to say, that the Court is not to take into account the possible gain which the owner of the property might have obtained at some future time."

The Hon'ble BABU JATRA MOHAN SEN said:—"I should like to add one or two illustrations to those that have been given by the Hon'ble Dr. Asutosh Mukhopadhyaya and the Hon'ble Babu Surendranath Banerjee. Take the case of a tank partly silted up near a road—and we have a very large number of such tanks in the added area. If we take in valuing this land the present disposition of the property, it would be that that property is a nusiance. The only disposition that it has is a periodical notice calling upon the owner to cleanse it; and we all know that if this property was filled up and sold in the open market it would fetch the same price as any other building site; but if we are to apply the present clause (*c*) to that property, I think the Corporation would not pay anything to the owner, but on the contrary get something from him, because he has to incur periodically some loss and, perhaps, also to undergo prosecution under notices from the Municipality.

"Then, again, take the case of a building with a tank attached to it. In the added area we have many such tanks attached to buildings, which are, in fact, a nuisance to the buildings themselves. If the building is let to a tenant now, it will not fetch the same rent which it otherwise would if there was no tank attached to it. The man is not able to spend money to fill the tank, but if that tank was filled probably he would get a higher rent. Now if he was willing to sell the tank and the house to a willing purchaser, the latter would pay not only for the building but also for the tank, and if he was able to build a new building altogether on a new model, he would pay a very much higher price; but if the Corporation is going to acquire it, the Corporation will

[*Babu Jatra Mohan Sen; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

only pay, say, twenty times or twenty-five times the rent that he is receiving now. That will be, I submit, an injustice to the owner of the property, because if he sells it to a willing purchaser in the market, he gets much more than is provided for in this section.

"Then, again, if we take the illustration which was given by the Hon'ble Dr. Asutosh Mukhopadhyaya, the illustration of five bighas, four bighas of which are occupied by tenants and one is waste. I think if the property was sold in the open market the one bigha which is waste would fetch a higher price than the four bighas occupied by tenants, for their trouble would be to turn out those tenants. But under the present sub-sections (*c*) and (*d*) probably he would get a very low price, because the present disposition of the property yields nothing.

"Then a reference was made to the report of the Building Commission, that if an owner took active steps to improve the property, probably just before the declaration, he would be entitled to a much higher price, but that has been again nullified by the third recommendation in asking the Legislature to enact proviso (*iii*) of clause (*c*), which provides that—

'if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act.'

Thus throwing the entire onus upon the man to prove in the first place, which is not the ordinary rule of law, that the improvement was made *bonâ fide*. Not that the Corporation is to prove that the improvement was not made *bonâ fide*, but that the person ought to prove that it was made *bonâ fide* and was not made in contemplation of the proceedings. I would not like to add much more at this stage of the argument. We are only dealing with the advisability as to whether clauses (*c*) and (*d*) should be retained. I endorse fully the arguments that were put forward by the Hon'ble Members proposing the amendments."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I beg to support both the amendments of the Hon'ble Dr. Asutosh Mukhopadhyaya and the Hon'ble Babu Surendranath Banerjee on the simple ground that when there is a distinct and separate law in the matter, and when there are provisions in that

[*Raja Ranajit Sinha, Bahadur, of Nashipur; Babu Boikanta Nath Sen.*]

law regarding these matters, the law should not be restricted by these clauses in favour of the Corporation, and no special ground has been made out in favour of the Corporation for the enactment of these clauses. If these clauses be kept in the statute-book they may not only work hard upon the owners of land, but will go against the settled rulings of the judicial authority."

The Hon'ble BABU BOIKANTA NATH SEN said:—"After what has been urged by my hon'ble friends I do not think I ought to take up unnecessarily the time of this Council, but what I beg to submit, Sir, is this. Clause (*c*) is either unnecessary or is in contravention of the provisions of Act I of 1894. In section 23 of that Act, we find that in 'determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration the market-value of the land at the date of the publication of the declaration relating thereto.' Here we find this additional clause:—

'The market-value of the land or building shall be deemed, for the purposes of clause *first* of the sub-section (*1*) of section 23 of the said Land Acquisition Act, to be the market-value according to the disposition of the land or building at the date of the publication of the declaration relating thereto under section 6 of the said Land Acquisition Act.'

"Has this sentence any meaning? 'According to the disposition of the land or building.' If it be said that it is co-extensive with the first clause of section 23, then it is unnecessary. If, on the other hand, it is contended that it has some meaning, what is the meaning? It would be restricting the Courts in respect of matters which they have to take into consideration, and which they shall not take into consideration under sections 23 and 24. Section 23 provides that in awarding compensation certain matters shall be taken into consideration. Section 24 provides that certain matters shall not be taken into consideration. Now, the Hon'ble Mr. Bolton has referred to the fifth clause of section 24. I would ask why is this provision here again: 'any increase to the value of the land acquired likely to accrue for the use to which it will be put when acquired.' The wording may not be identical, but it is the same. My contention is that, if it be said that this is merely a reproduction of the provisions of sections 23 and 24, then it is unnecessary. If the phrase 'according to the disposition of the land or building' has any particular meaning, then I submit it would be restricting the powers of the Court in fixing compensation so far as they at present enjoy under the existing law, and if it be in any way in contravention of or in conflict with the existing Act, I

submit it is a matter for the consideration of the Council whether an India Council Act can be thus superseded, repealed, practically, or interfered with or modified by an Act of the Provincial Council. It may be a question, it will be perhaps a very nice question, for lawyars to discuss hereafter whether this would not be *ultra vires*. I leave this to be considered by the Council. Then it strikes me if the provisions intended to be introduced by in any way in direct conflict with or in contravention of the provisions of the existing law which is embodied in an Act of the Supreme Council, the authority of that Council should be obtained."

The Hon'ble MR. BAKER said:—"In introducing this Bill we received the sanction of the Government of India to these clauses. This Council has the power to modify an Act of the Government of India with the sanction of that Government."

The Hon'ble BABU BOIKANTA NATH SEN said:—"Under the existing rules a preliminary sanction has been taken, but the question even then will arise whether this sanction would cure any defect which would exist if this be found to be in any way contravening or being in conflict with the existing law embodied in that.

"With regard to clause (*d*),—and here I may say that I do not wish to waste the time of the Council, especially as the Members of Council are very anxious to go away, and more especially those like myself who come from the mufassal,—it appears to me that there is a latent desire and an indirect attempt to prevent fraudulent under-valuation effected by the rate-payers by resorting to unfair means in getting an under-assessment, and I fully sympathise with that. If people come to know that the valuation made in the assessment book would be taken as the standard for the purpose of awarding compensation when cases of land acquisition arise, they would think thrice perhaps before they make any attempts by resorting to unfair means to have their holdings under-valued. I think it will have a direct effect from that point of view, and so far I thoroughly agree; but the question is whether the valuation in the assessment book ought to be taken as the standard. When this Act, I of 1894, was passed, I have no doubt Hon'ble Members will remember there was a great deal of discussion about the fixing of the market value. It was a very difficult question, and, therefore, it was that in that law those two sections were

embodied. Certain matters will have to be taken into consideration; certain matters will be excluded from being taken into consideration. It left the Courts entirely at liberty in the application of equitable principles to fix the assessment according to the circumstances of each case. Now here the Courts will be handicapped. It has been observed by the Hon'ble the Legal Remembrancer that perhaps the law's delay would be avoided to a certain extent. That may be, but the provision won't be equivalent to a stereotyped hard-and-fast rule that this is the annual value which is to be put down in the assessment book, and this is to be the guide. I believe, and I fear, it will act injuriously both for the Corporation and for the rate-payers. I say also that it is not a safe standard; it is not a judicious standard to be adopted. This question ought to be left for decision by the Courts having regard to all the circumstances of the case. Delay may take place; the law's delay is proverbial, and so long as the law will have to be administered in any country there will be delay, you cannot cut down the delay in this way. I submit, therefore, that both these clauses ought to be left out."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I do not wish to get entangled in the meshes of a legal controversy, because if I do get entangled in such a controversy it will be difficult to get out of it. It has become abundantly clear in the course of the debate that no case whatever has been made out for any change of the law. My friend the Hon'ble Member for the University appealed to the Hon'ble the Legal Remembrancer as to what his experience of these cases was, and he said that, working under the existing law, he had found no difficulty whatever, and the only difficulty that ever arose was in connection with the delays that were caused by the operation of the present law. You have already passed a section which avoids those delays, and, therefore, it seems to me that, so far as the practical working of this law is concerned, no difficulties having been felt, there is no justification for this important modification in the law, which is unique and unprecedented, which has no analogy in the municipal legislation of the Empire or of the civilised world. I challenge Hon'ble Members to refer to a single Municipal Act where such provisions in land acquisition proceedings find a place. Therefore, it seems to me that absolutely no case has been made out; and then, Sir, not only has no case been made out, but the whole volume of opinion, the balance of argument, is entirely adverse to the enactment of these provisions. Our contention—I do not know whether

we have been able to make the point clear—is this: the present law has worked well; do not have any hard-and-fast rule based upon assessments which are untrustworthy and unreliable; these will lead to difficulties and complications, and, in some cases, the provisions of the Bill will be attended with loss to individuals, in some cases with loss to the Corporation. Why take a leap into the unknown? I think, Sir, this is common sense, especially having regard to the fact there is very strong feeling against these provisions.

"One word about the question of valuation to which the Hon'ble Member in charge of the Bill referred. The Hon'ble Member said that with regard to the waste lands to which I alluded in the course of my observations, the municipal assessment books must have an annual valuation. I do not know what municipal assessment books contain or do not contain. The municipal assessment books are made up by irresponsible parties, though no doubt they are subject to the supervision and control of the Assessor. But the Assessor cannot look into the minutiæ of these assessments, and I say it is positively dangerous to make the allotments of compensation depend upon these assessments. My hon'ble friend referred to the annual valuation of an old house and of a new house. And he said there must be a difference in the assessment book. I say no if both the houses are let on hire, and my reasons are these: the annual value in both cases would be dependent upon the letting value—the value upon which the old house and the new house are let. The old house lets for Rs. 100 a month, the new house also lets for Rs. 100 a month, because people do not make a distinction in that way. Therefore the annual value being dependent upon the letting value, the annual value will be the same figure in the one case as it will be in the other case. Therefore any compensation paid upon the basis of the annual value would be exactly the same in the one as in the other case. Therefore the compensation paid for the old house would be exactly the same as the compensation paid for the new house. If the compensation paid for the new house is inadequate and insufficient, the compensation paid for the old house is excessive and extravagant. How my friend the Hon'ble Member in charge of the Bill persuades himself into an opposite line of argument and an opposite line of conclusion is one of those mysteries which I have not been able to understand. The conclusion seems to be plain and palpable. In some cases there will be loss to the Corportion, in others loss to the public, and it seems to me unnecessary altogether to introduce a change in the law."

[*Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I cannot conceal, Sir, that my experience in connection with this debate has been of a very novel character. Each of the four hon'ble gentlemen who spoke on the Government side has made admissions which, when taken together, completely destroy the Government cause. This is a startling statement to make; but I shall show presently that there is no exaggeration whatever. It will be convenient, however, if we specify what these admissions are, and deal with each of them separately.

"The Hon'ble Mr. Oldham endeavoured to meet the concrete case put by me so far as clause (*c*) was concerned. Clause (*c*), it may be remembered, deals with the case of the present disposition of the land and building, that is to say, the disposition of the land and building at the date of the publication of the declaration. I gave as a concrete illustration the case of the waste land. My hon'ble friend said there will be some means of valuing it. No doubt there is a means of valuing it, but the law expressly says that you are not to value it, you are not to look to its potential value, but you are to look to its disposition at the time of the publication of the declaration. I am constrained to say, Sir, that my hon'ble friend has given no answer whatever to my argument. Then he takes clause (*d*), and there he frankly confesses that my arguments are unanswerable; but what is the remedy he suggests? Reduce twenty-five to twenty! I am quite willing to take that if he will fall in with my views in their entirety. I pointed out that, so far as clause (*d*) was concerned, twenty-five times the annual valuation in the case of residential houses would certainly involve the Corporation in serious loss; but I also pointed out that twenty-five times in the other case would involve the rate-payers in equally serious loss. My hon'ble friend did not advert to this latter part of my argument, and I have the strongest objection to his adopting the first half of my argument and abandoning the other half when the two together really form one indivisible whole.

"I now turn to the observations of the Hon'ble the Legal Remembrancer, who in answer to me admitted that there was no difficulty in administering the present law, except for the delays which are unavoidable; and he ventured to indulge in the hope that if the presumption which is embodied in clause (*d*) is incorporated in the statute book, such delay will be avoided in future. I

venture to think, however, that the result will be just the other way. Under the existing law, when there is no presumption whatsoever, District Judges are allowed to deal with the particular facts of the case they have before them. Under the new law they will be hampered with this additional presumption, which I have shown may be successfully challenged in the majority of instances, and, therefore, the preliminary question in every case will be whether the presumption is applicable or not. Either the Corporation or the rate-payer, whosoever may be interested to do so, will, in the first instance, endeavour to destroy that presumption, and once it has been destroyed the whole operation which has to be performed under the existing law becomes inevitable. Then the Hon'ble the Legal Remembrancer pointed out another very important clause which I had overlooked, namely, that there is a proviso to clause (*d*) that the presumption that the market value is twenty-five times the annual value of the property is not to come into operation till there has been a fresh re-assessment after the commencement of this Act. It will be in the recollection of the Council that the other day they accepted my amendment to section 148B (*now* 152), in which they specified the dates upon which the assessments made under the present Act are to terminate in each of the wards of the city. I have already pointed out to you that this presumption is not applicable to all cases in Calcutta; but I now desire to point out, what is still more anomalous, that this presumption will be applicable to different wards on different dates. Take ward No. 10. There the existing valuation comes to an end in March, 1900, so that till then no presumption will apply there. Take ward No. 6. There the valuation comes to an end in 1901. In some of the wards the valuation will come to an end so late as 1906; so that I take it the consequence of this new law will be that in the case of land acquired by the Corporation in 1905 on one side of a street the presumption will apply; in the case of land taken on the other side of the street no presumption will apply. Therefore, not only is it true that you have not one presumption applicable to the whole of Calcutta, but you have one presumption applicable to the Corporation, another to other people, and you have this presumption coming into operation in different parts of Calcutta on different dates ranging from 1900 to 1906. I do not think this is an invention of which any Legislature will be proud.

[*Dr. Asutosh Mukhopadhyaya.*]

"I shall next deal with the observations of the Hon'ble Member in charge of the Bill. I devoutly wish, Sir, that instead of being a Member of the Covenanted Civil Service my hon'ble friend had been a Member of the Bar, for he would have been the best defender of bad cases. My hon'ble friend in answer to my argument pointed out, with his usual acuteness, that the cases to which I referred will be covered by clause (*d*); that is precisely my objection. Clause (*c*) and clause (*d*) contradict each other. What is the remedy you propose to apply in the case which is covered by each of the two clauses (*c*) and (*d*)? Clause (*d*) provides that—

'The market value of the land or building shall, until the contrary is shown, be presumed, for the purposes of the said clause *first* of sub-section (*1*) of section 23, to be twenty-five times the annual value of the property, as entered in the assessment-book prescribed by this Act.'

"Well and good. A parcel of land is valued in 1901; it is acquired by the Corporation in 1906; if you apply the presumption in clause (*d*), the market value in 1906 is twenty-five times the annual value as assessed in 1901; but the rule in clause (*c*) also applies, so that you must proceed on the basis of the disposition of the land in 1906. Now, if circumstances have changed in the meanwhile, the valuations obtained by the two processes will be different—a necessary consequence of the fact that you have one presumption in clause (*d*) and another rule laid down in clause (*c*). You have clearly two presumptions which contradict each other. Therefore, before the present law can be applied, you will have in every individual case to test the presumption which arises. My hon'ble friend next said, as regards my illustration of the new house and the old house, that the annual value will be different in the two cases. I submit with great respect that this is begging the whole question. Remember that, under section 148A (*now* 151), the principle upon which you proceed is the letting value, not in the case of a lease for a term, but a lease from year to year; that is to say, whether the house be old or new, you have to see what amount of rental would be paid by a tenant who took it only for a year; and whether the house be old or new, if it is in good repair, he will pay the same amount of rent in the two cases. Of course, if you proceeded upon the basis of a lease for a term, say, for ten years, the result might be different; for it would make considerable difference to a tenant who wants a lease of a building for a long

[*Dr. Asutosh Mukhopadhyaya.*]

term, whether the house is old or new. But so long as you proceed on the basis of a yearly tenancy, the annual value of the old and the new house, as entered in the municipal assessment roll, is bound to be identical, unless, indeed, such assessments are based on some novel and arbitrary principle. I repeat, therefore, that when my hon'ble friend assumes that the valuations in the two cases will be equal, he assumes the very thing which I challenge and which has to be proved.

"Lastly, I must take the observations of the Hon'ble the Chief Secretary. If I understood him correctly, he said that the law as laid down by Sir Richard Garth had been altered by the Act of 1894. Assume this to be the right view; the present provision, then, is a wholly unnecessary piece of legislation, and should be abandoned. But, as a matter of fact, the change in the law has not the remotest bearing upon the present question. Under the law of 1870, the market value had to be ascertained at the date of the award; under the law of 1894, it has to be ascertained at the date of the declaration. But the question now before the Council is whether you are to regard the actual disposition at the date when the declaration is made or any possible disposition of the property. In the judgment of Sir Richard Garth, the learned Chief Justice did not dwell at all upon the fact that under the law as it then existed the property was to be valued, not at the time of the declaration, but at the time when it was actually taken up and the compensation awarded. The point for discussion was, are you to consider the state of the property at the date when it is acquired or estimate its value with regard to any possible use to which it might be put, not between the date of the declaration and the date when it is actually taken up, but any possible use to which it might be put by the owner at any time if the property instead of being acquired for public purposes continued in his possession? That is quite clear from section 23 itself, which provides that you are to take the market value of the land at the date of the declaration. What you are now seeking to do is arbitrarily to define this market value and to put a further restricted meaning upon it. Let me put a concrete case before the Council. Here is a bustee which you want to take up. The owner says that its market value has to be determined at the date of the declaration. He contends that if a person purchased it he would have to pay for it, not what it may bring him in as a bustee, but what it would bring

him in as a building site. If he can make that good under the existing law, he will be entitled to get from the party who takes up the land compensation on the basis of valuation upon the footing of its being used for a building site; in other words, if he can make out that the particular plot of land may be used as a bustee or may be used as a building site, the market value will be assessed on the basis of a building site. You change this under the new law and provide that when the Corporation acquires the property used as a bustee, there is to be no reference to any prospective disposition. You do not adhere to the provisions of section 23 of the Land Acquisition Act, you substantially change them in favour of the Corporation alone. But, in your anxiety to favour the Corporation, you manage to contradict yourself. In section 585 (*now* 557) you attempt to define market value with reference to the annual value as determined for purposes of assessment. You apply your definition to houses let from year to year, but you overlook that, when the question of assessment of these very houses was discussed, you declined to accept my suggestion that such assessment should proceed on the basis of the market value. In one part of the Bill, you declare that there is no relation between market value and rateable value; in another part of the Bill, most inconsistently, you make the one depend on the other; in other words, there is one mode of valuation when property has to be rated, another mode of valuation when it has to be confiscated; in each instance, the citizen is the loser and the Corporation the gainer."

The Hon'ble MR. BAKER said:—"May I be permitted to say one word in reply with reference to what fell from the Hon'ble Babu Surendranath Banerjee and the Hon'ble Babu Boikanta Nath Sen. It is with reference to the section as a whole. It is this. In Calcutta, unlike any other part of Bengal, we have the whole area to which the land acquisition provisions can apply, carefully assessed in the ordinary course of business by a special establishment. All those assessments are subject to the right of the owners first to lodge an objection to the Vice-Chairman, and, finally, to an appeal to the Small Cause Court; and we may take it that on the whole the assessments are most carefully and most accurately made, the interests of both parties being carefully safeguarded. Surely it is a matter of common sense when the Corporation comes to take up land whose value has been determined in that way, that the value to be awarded should depend in some way or other upon the assessment previously made."

The motions being put the Council divided as follows:—

Ayes 6.

The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.
The Hon'ble Babu Jatra Mohan Sen.
The Hon'ble Babu Boikanta Nath Sen.
The Hon'ble Babu Surendranath Banerjee.
The Hon'ble Mr. Apcar.
The Hon'ble Dr. Asutosh Mukhopadhyaya.

Noes 12.

The Hon'ble Mr. Buckley.
The Hon'ble Mr. Buckland.
The Hon'ble Mr. Handley.
The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Mackenzie.
The Hon'ble Mr. Spink.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
The Hon'ble Mr. Oldham.
The Hon'ble Mr. Baker.
The Hon'ble Mr. Bolton.
The Hon'ble Mr. Slack.

So the amendments were lost.

The Hon'ble MR. BAKER said:—"Before the next amendment on the paper is proceeded with, may I be permitted to move the following proviso to clause (*b*) of section 585 (*now* 557). It was alluded to when we were dealing with that clause. I said then that I would be willing to make it clear that compensation for sudden disturbance should be allowed, and I think the general idea was that that ought to be done. The Secretary has drafted the following proviso:—

'When proceedings have been taken under the said section 17 for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession.'"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I gladly accept the amendment."

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Before I move my next amendment, I should like to ask the Hon'ble Member in charge of the Bill whether he will accept it or not. If he does not accept it, I do not see the use of going on with it. The amendment is as follows:—

'that for the words 'two years' the words 'one year' be substituted in line 5 of proviso (*iii*) to section 585.'"

[*Mr. Baker; Dr. Asutosh Mukhopadhyaya; Mr. Oldham; Babu Jatra Mohan Sen.*]

The Hon'ble MR. BAKER said:—"I do not accept the amendment."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 585 (*now* 557), clause (*c*), proviso (*i*), line 9, for "may" be substituted "shall."

He said:—"This is a very small matter. It seems to me that 'may' here means 'shall.' If there is actual loss, compensation 'shall' be paid to the owner and not 'may' be paid to him. As the word occurs twice in the same section, I want to put in the word 'may' in one place and 'shall' in the other."

The Hon'ble MR. OLDHAM said:—"'May' means 'may' in this section. It is intended not to bind the Corporation hand and foot, but to leave the law in some degree elastic. It has been already explained how uncertain it is. One Hon'ble Member has asked what the exact meaning of the word 'disposition' was. All that has to be elucidated, and I think it is safer to leave the word 'may' in."

The Hon'ble MR. BAKER said:—"I am informed by the Secretary that this particular clause including the word 'may' was drafted by Mr. Justice Trevelyan himself."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am not surprised to hear that, and I must press my amendment on the Council."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name, that in section 585 (*now* 557), clause (*e*), the words "*surki* mills" be omitted.

The Hon'ble BABU JATRA MOHAN SEN moved—

(1) that in section 585 (*now* 557), proviso (*iii*), for the words "unless it be proved that the improvement was made *bonâ fide* and not," the words "when it is established that the improvement was not made *bonâ fide* and was made" be substituted;

[*Babu Jatra Mohan Sen.*]

(2) that to the said proviso (*iii*) the following be added:—

"*Explanation.*—Service of notice, if any, made by the Chairman on the owner or his predecessor of the intention of the Corporation to take proceedings for the acquisition of the land or building shall be conclusive evidence to establish that the improvement made thereafter was not made *bonâ fide*, and was made in contemplation of proceedings for the acquisition of such land or building.

Proviso (*iii*) shall not apply when the declaration is published more than two years after the matter of the intended acquisition is first discussed at a meeting of the Corporation, or after the service of the notice referred to in the *Explanation*, whichever event first occurs."

He said:—"With Your Honour's permission I would take these two amendments together and also to add to the explanation after the words 'if any' in line 1, the words 'is issued by the Chairman' and leave out the word 'made.'

"The object of these amendments evidently is to shift the burden of proof from one party to another. Clause (*iii*) provides—

'if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act.'

"The clause as drafted throws the onus of proof on the owner; the object of my amendment is to throw the onus upon the Corporation. Now, Sir, the report of the Building Commission in one part said that if any step is taken to improve the property, then of course 'the present disposition of the property' as embodied in clause (*c*) would not be injurious to this case; but this proviso militates against that recommendation. You say that, if a person makes an improvement shortly before the declaration, he will get a proper price; but in the next place you say that if the improvement is made not within a few days or a few months or a year, but within two years after the declaration, you must pover that those improvements were made *bonâ fide*, and were not made in contemplation of an intended acquisition. It is dangerous, I submit, to make a provision of this kind. We all know what the presumption is in Civil Courts: that once an onus is thrown upon a party, it is difficult for him to discharge it. Take for instance a congested area. It is desirable that the congested area

should be opened up and some road should pass through it. A discussion is going on, and it is difficult to say what line the road will take. Now the man, not knowing whether the line of the road will take the direction covering his land or house, makes improvements. Perhaps two years afterwards or one and a half year afterwards it may so turn out that the line takes such a turn that his land has to be acquired. Then the presumption would arise that he did not make these improvements *bonâ fide*, and it would be difficult for him to establish the case beyond giving his own deposition.

"Now, Sir, it is a settled principle of law on the rule of evidence and burden of proof that circumstances of mere suspicion which lead to no certain result is no proof of bad faith or fraud, and that no fraud can be presumed against anybody in any case, or, in other words, fraud and dishonesty are not to be assumed upon conjecture, however probable. It may be said that fraud is incapable of being proved by direct evidence, but circumstantial evidence is none the less not difficult of proof and is equally cogent and strong as the evidence of the senses. The evidence of circumstances of fraud must be strong and sufficient to overcome the natural presumption of honesty and fair dealing, and it must be such as to satisfy a reasonable mind of the existence of fraud by raising a counter-presumption, there being no such thing as legal fraud in the absence of moral fraud.

"As to the onus there is no reason why we should deviate from the rules enunciated by the Evidence Act. If the Municipality is convinced of the necessity of acquiring any land or building, there is no difficulty in apprising the owner of such intention by notice prohibiting him to spend money in the improvement of the property. It may be said that if the land is not acquired the Corporation may be held liable to pay damages; but the Corporation must take that risk if it really wants to avoid the burden of proving fraud.

"The provisions proposed to be enacted being in derogation of, and encroachment upon, the rights of owners must be so made as to cause least hardship to them. It is, therefore, I propose, that the onus of proving want of *bonâ fide* must be thrown on the Corporation, which it can easily avoid by giving a notice to the owner.

"Then again there should be some limit of time within which decided action in the shape of publication of declaration should be fixed, and I have not altered the period suggested, which is two years, but have made it

[*Babu Jatra Mohan Sen; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

definite in the *proviso* suggested by my amendment. Assume, again, a proposal to acquire a piece of land is mooted. After a correspondence of, say, two years, the matter is dropped, and in the meantime the owner is in possession of funds which he intends to invest in building on the land. Who is responsible for the owner's loss? Then, again, suppose as soon as the owner begins to build on the same land, say, after a year, the matter was dropped, but after the correspondence was re-opened for acquiring the same piece of land, and it is ultimately decided that the acquisition is necessary, and a declaration is published under this Government's further orders. In this manner, the owner may be delayed to exercise his undoubted right to improve his property for an indefinite period.

"Let me take another instance. A discussion is set on foot at a meeting of the Corporation to open a congested area by making a road, or that the idea is conceived by one of the authorities, and the matter is made the subject of correspondence. No plan is drawn; there is no knowing what the line of the road will be, but should any person make any improvement and the road happens to pass through his improved property, the onus is thrown upon him to prove *bonâ fide*, and we all know how difficult it is to discharge it. It may be urged on behalf of the Corporation that the man was aware of the proposal of the acquisition, and he, in order to get a large compensation, made the improvement, and the suggestion is sure to be accepted. Now here the Corporation may not know what line the road would take, and yet the presumption is going to be made in favour of the Corporation and against the owner of the property who may be ignorant as to the line the road would take."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I beg that the amendment which stands in my name in the list of business may be taken with the two just moved. My amendment is as follows:—

"That in proviso (*iii*) to clause (*c*) of section 585 (*now* 557) the words 'if it be proved that improvement was made not *bonâ fide*, but' be substituted for the words 'unless it be proved that the improvement was made *bonâ fide* and not.'"

"My amendment, though not identical with the amendment just moved by the Hon'ble Babu Jatra Mohan Sen, purports to be the same, and the object of my amendment is this: that in the matter of land acquisition matters the Chairman of the Corporation is also to be considered a party, and when it is to his advantage that the improvement made by the owner should be disregarded, it is fair that he should have to prove that the improvement was made not *bonâ fide* but on contemplation to fetch higher compensation."

[*Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BAKER said:—"Inmoving his first amendment the Hon'ble Babu Jatra Mohan Sen said that his object was to throw the onus of proof on to the Corporation. Could anything possibly be more unreasonable? What the Corporation would have to prove would be a negative as to the intention of some private person in doing some act, two years beforehand. How could they possibly discharge any such obligation? The Hon'ble Member referred to some principles of the law of evidence. As I understand it, Sir, there is a recognised principle in the law of evidence to the effect that the burden of proving any particular fact shall lie upon the party who is best able to prove it. Surely, if an owner has carried out an improvement *bonâ fide* within the period specified in the section, he is the person best able—in fact he is the only person who is able—to show that the improvement was carried out in good faith and not with the intention of extorting higher compensation from the Courts.

"Then, Sir, with reference to the second amendment of the Hon'ble BABU JATRA MOHAN SEN, I would ask the Council to look at the terms of the proviso, which is as follows:—

'Proviso (*iii*) shall not apply when the declaration is published more than two years after the matter of the intended acquisition is first discussed at a meeting of the Corporation.'

"Could any words possibly be more vague and indefinite? There may be no record. The matter may come up at a meeting of the Corporation in a casual incidental way without notice; there might be no proper discussion on it; no one might know anything about it. But because one or two members may have been talking casually about it, this proviso is to come into operation and the rule in proviso (*iii*) of section 585 (*now* 557) is not to apply. I will not trouble the Council with any further observations. It appears to me that the whole of the second amendment is absolutely impracticable. I should have had very little objection to a notice being served by the Chairman on the owner of any land whose property it was in contemplation to take up, but to rule that after the lapse of two years, if the Corporation have not published a declaration, the whole of this clause is not to apply would absolutely destroy the effect of the section which the Building Commission recommended."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I feel very strongly the force of the observations which have been addressed by the Hon'ble Member in charge of the Bill. It would be difficult on the part of the Corporation to prove a thing of that kind, because the knowledge would be knowledge which

[*Babu Surendranath Banerjee; Mr. Oldham; Babu Jatra Mohan Sen.*]

would be in the possession of the party concerned; and as for proving a negative, I think my hon'ble friend will remember the case where he has called upon an unfortunate person, who makes an application for the approval of a site of a building or for a plan of a building, to prove a negative: the applicant is to satisfy the Chairman that there are no objections which might be brought forward against the site or against the plan. Therefore, as far as that is concerned, my hon'ble friend in charge of the Bill and the hon'ble mover of this amendment stand exactly upon the same footing. The Hon'ble Member in charge of the Bill has placed an impossible burden upon an unfortunate individual, and my friend the Hon'ble Babu Jatra Mohun Sen proposes to place an impossible burden upon the Corporation."

The Hon'ble MR. OLDHAM said:—"No one has noticed the explanation proposed to be moved in section 585 (*now* 557). I do not suppose my colleagues in the Corporation will consent to that. It leaves it possible for the Chairman to employ any spare time he may find on his hands in issuing notices which would bind the whole of Calcutta."

The Hon'ble BABU JATRA MOHAN SEN said:—"It is not an unknown thing in the Law Courts that the onus of proving that a man has not a certain intention often lies upon the party who has to establish a negative. For instance, in the case of fraud, although it is within the knowledge of the person who commits fraud, nevertheless both in criminal and civil cases the onus is not upon the person who alleges absence of fraud to prove that he did not commit a fraud, but upon the person who alleges that fraud has been actually committed. Therefore, it is not unusual in Courts of Justice to prove a negative, but is it really the case here, as the party alleging fraud has to prove it. As my friend the Hon'ble Babu Surendranath Banerjee has pointed out, the case where a person has to do the impossible feat of satisfying the Chairman that there is no objection on the part of the Chairman or any party as to whether a site is fit for a building site. If that could be proved by a person, I do not see why the Corporation should not prove a negative of this kind. And then again it is very easy for the Corporation to know whether they are going to acquire a piece of land. Service of notice is the easiest mode of proving a case. Therefore, I have provided that, if notice is served by the Corporation intimating their intention of acquiring a particular piece of land, the onus is to be shifted, and I have

[*Babu Jatra Mohan Sen; Raja Ranajit Sinha, Bahadur, of Nashipur; Babu Surendranath Banerjee; Mr. Baker.*]

provided that it would be conclusive evidence that the improvement was made *mala fide*. That is a very simple procedure to follow."

The Hon'ble BABU JATRA MOHAN SEN's first motion was then put and lost.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR's motion was then put and lost.

The Hon'ble BABU JATRA MOHAN SEN's second motion was then put and lost.

SECTION 559.

The HON'BLE RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the motion, standing in his name, that the words "and unfiltered" be inserted after the word "filtered" in clause (*5*) of section 590 [*now* clause (*6*) of section 559].

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "market" in line 5 of clause (*35*) of sub-section (*2*) of section 590 [*now* clause (*36*) of section 559] the words "or elsewhere" be inserted.

He said:—"This is a small matter, and I will not trouble the Council at any length. This section refers to the making of bye-laws by the General Committee. Clause (*35*) [*new* (*36*)] provides:—

'for preventing persons suffering from any loathsome disease from keeping stalls in, or being employed in preparing or selling articles of food in, any market, or from entering any municipal market or touching any article brought thereto for sale, and for authorising the expulsion of such persons from any municipal market.'

"I do not know whether the Hon'ble Member in charge of the Bill will think that they ought to be prevented, but loathsome people suffering from disease ought to be prevented from selling these things."

The Hon'ble MR. BAKER said:—"It seems to me, Sir, that while the provision is perfectly right as regard municipal markets or any market, it would not be right in a Municipal Act to take power to prevent these people from selling food elsewhere. That is a matter for a Police Act or a Lepers Act. I think it would be out of place in a Municipal Act."

The motion was then, by leave of the Council, withdrawn.

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE also moved that after clause (*35*) of section 590 [*now* clause (*36*) of section 559] the following clause be added:—

'(*35a*) for preventing persons suffering from any infectious or contagious disease living in places where food or drugs is or are sold, stored or prepared, and for regulating the business of the place where any such case has occurred."

The Hon'ble MR. BAKER said:—"I will accept this amendment if the word 'disinfecting' is substituted for the words 'regulating the business of.' The expression 'regulating the business of' is too wide."

The motion was put in the amended form and agreed to.

The Hon'ble MR. BAKER moved that in clause (*5*) of section 590 [*now* clause (*6*) of section 559] the words "directing and" be omitted.

He said:—"It was provided on the motion of the Hon'ble Babu Surendranath Banerjee the other day that there should be a section inserted in the Bill directing the weekly testing of the purity of water. Therefore, it becomes unnecessary that a bye-law should direct the testing of the purity of the water."

The motion was put and agreed to.

SECTION 569.

The Hon'ble MR. BAKER moved that in section 597 (*now* 569), sub-section (*1*), the words "section 61B (*now* 68)" be inserted before the words "section 65 (*now* 73)."

He said:—"This is practically a consequential amendment. When we were dealing with section 61B (*now* 68), which provides that the Local Government may make rules proscribing the qualifications of candidates for employment in the Health, Conservancy and Engineering Departments, respectively, of the Corporation, it was decided, at the instance of the Hon'ble Babu Surendranath Banerjee, that the rules should be framed by the Corporation with the sanction of the Local Government. The sanction of the Local Government is provided for by inserting a reference to section 61B (*now* 68) in section 597 (*now* 569), and I now move that that reference be inserted."

The motion was put and agreed to.

[*Dr. Asutosh Mukhopadhyaya ; Mr. Baker.*]

SECTIONS 574, 575 AND 577.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

(*1*) that, in the tabular statement annexed to section 602 (*now* 574), for "329F (*now* 344), sub-section (*1*)," be substituted "329F (*now* 344);"

(2) that, in the tabular statement annexed to section 602 (*now* 574), the following be inserted:—

Section 391D (*now* 383), sub-sections (*3*), (*4*).	Building contrary to plan or rules.	One hundred rupees.
Section 398 (*now* 388) ...	Erecting hut without permission	Twenty-five rupees.
" 421 (*now* 402) ...	Ditto ...	Ditto.
" 422 (*now* 403) ...	Ditto ...	Ditto.

The Hon'ble MR. BAKER moved that, in the tabular statement annexed to section 602 (*now* 574), the following be inserted:—

Section 253A (*now* 262) ...	Replacing or alteration of fittings for supply of filtered water for the flushing of privies or urinals.	Fifty rupees.

The motion was put and agreed to.

The Hon'ble MR. BAKER also moved that, in the tabular statement annexed to section 603 (*now* 575), the following be inserted:—

Section 253A (*now* 262) ...	Replacing or alteration of fittings for supply of filtered water for the flushing of privies or urinals.	Five rupees.

He said:—"This is a necessary penalty for neglecting to replace or alter the fittings for the supply of filtered water for the flushing of privies or urinals. In section 602 (*now* 574) the penalty proposed is Rs. 50, and in section 603 (*now* 575) the daily fine of Rs. 5 is suggested. I beg to move that these penalties be inserted."

[*Babu Surendranath Banerjee; Mr. Baker; Dr. Asutosh Mukhopadhyaya.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have no objection."

The motion was put and agreed to.

The Hon'ble MR. BAKER said:—"At this stage I would ask permission to move, in consequence of the decision arrived at this morning with reference to party walls, that the reference to section 370A be omitted from sections 602 and 603 (*now* 574 and 575)."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that, in the tabular statement annexed to section 603 (*now* 575), the following be inserted:—

Section 329F (*now* 344), sub-section (*1*) ...	Erection or maintenance of sky-sign without permission.	Fifty rupees.

He said:—"Section 329F (*now* 344), sub-section (*1*), read with section 602 (*now* 574), provides that for the erection or maintenance of a sky-sign without permission a fine of Rs. 200 may be imposed. I propose that a penalty for continual infringement of the provisions of section 329F (*now* 344), should be prescribed. In section 602 (*now* 574) we have a penalty of Rs. 200 for erecting or building a sky-sign without permission, and it is proposed that, if on the imposition of the fine on the first occasion the owner continues the illegal act, there should be a further fine.

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 605 (*now* 577), line 4, after "employer" be inserted "or employé."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that, in the tabular statement annexed to section 603 (*now* 575), the following be inserted, namely:—

Section 254D (*now* 268), sub-section (*1*) ...	Waste of water supplied to premises.	Five rupees.

The motion was put and agreed to.

[*Dr. Asutosh Mukhopadhyaya; Babu Surendranath Banerjee.*]

Teh Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that, in the tabular statement annexed to section 603 (*now* 575), for "Section 478 (*now* 453), sub-section (*5*)," be substituted "Section 478 (*now* 453)," and for "Section 482A (*now* 455)" be substituted "Section 482A (*now* 455), sub-section (*5*)."

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that the words "or employment" in line 7 of section 605 (*now* 577) be omitted.

He said:—"This amendment must be withdrawn having regard to the adverse verdict of the Council upon a similar amendment. This is merely consequential, and I withdraw it."

NEW SECTION.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that after section 608C (*now* 583) the following be inserted:—

"608D. It shall be competent to the Court which sentences an offender under section 602, section 603, section 607, section 608, section 608A, section 608B or section 608C (*now* 574, 575, 579, 580, 581, 582 and 583) to direct by the sentence that in default of payment of the fine the offender shall suffer simple imprisonment for a term not exceeding one month."

SECTION 584.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 609 (*now* 584) be omitted.

He said:—"I have one word only to say with regard to this matter. Section 609 (*now* 584) provides:—

'Any mehter or other servant of the Corporation referred to in section 467 (*now* 438) who withdraws from his duties in contravention of that section shall be punished with fine which may extend to one hundred rupees, or with rigorous imprisonment for a term which may extend to three months, or with both, and shall forfeit any salary which may be due to him.'

"I am bound to mention that this is the law, but the law is absolutely nugatory. The object is to prevent a strike, but this section has never been enforced. We had something like a strike during the plague; but the Executive

did not feel strong enough to enforce the provisions of this section. All that I have got to say is that, as this section is practically a dead-letter, why have it in the law? But, if the Hon'ble Member in charge of the Bill has any strong objection, I will not press it."

The Hon'ble MR. BAKER said:—"When this matter was discussed in the Select Committee Babu Narendra Nath Sen strongly opposed his colleague. He said he was entirely in favour of retaining the provision, which is in accordance with the existing law. Then the Hon'ble Babu Surendranath Banerjee, finding himself alone, withdrew his objection."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I will follow the example which I set in the Select Committee, and I will withdraw the amendment."

The motion was then, by leave of the Council, withdrawn.

SECTION 585.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the word "or" in line 6 of section 610 (*now* 585), the words "and in default of payment of fine" be substituted.

He said:—"Section 610 (*now* 585) provides:—

'Any person who, in contravention of section 667 or section 668 (*now* 647 and 648), obstructs or molests any person with whom the Chairman has entered into a contract, or removes any mark, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.'

"This is an amendment which leans in the direction of mercy. If there is an interference, the person who molests or interferes is to be fined, and, in default of fine, he is to be imprisoned. The section gives the discretion to the Magistrate either to fine or to send the person to imprisonment.

"The offence is not of such a serious character as to deserve imprisonment in the first instance. Therefore, I want to take away the discretion which the section gives to the Magistrate to send the man to prison."

The Hon'ble MR. BAKER said:—"This section merely reproduces the present law, and I think that no case whatever has been made out for making any change."

The motion was then put and lost.

[*Babu Surendranath Banerjee; Mr. Baker.*]

SECTION 596.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "dissatisfied," in line 1 of sub-section (*4*) of section 621 (*now* 596), the following words be inserted:—

"with any order passed by the Chairman under sub-section (*2*) or."

He said:—"This amendment refers to section 621 (*now* 596), which provides:—

'The Chairman may enter upon any land adjoining or within one hundred yards of any works authorised by this Act or any rule, bye-law or regulation made hereunder, for the purpose of depositing upon such land any soil, gravel, sand, lime, bricks, stone or other materials or of obtaining access to such works, or for any other purpose connected with the carrying on of such works.

(*2*) The Chairman shall, before entering upon any land under sub-section (*1*), give the owner and occupier three days' previous written notice of his intention to make such entry, and of the purpose thereof, and shall, if so required by the owner or occupier, set apart by sufficient fences so much of the land as may be required for the purposes mentioned in or referred to in the said sub-section.

(*3*) The Chairman shall not be bound to make any payment, tender or deposit before entering upon any land under sub-section (*1*), but shall do as little damage as may be, and shall pay compensation to the owner and occupier of the land for such entry and for any temporary damage that may be done in consequence thereof, and shall also pay compensation to the said owner for any permanent damage resulting therefrom.

(*4*) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the Chairman, he may appeal to the General Committee, whose decision shall be final.'

"The Chairman may delegate this power to some underling, and, therefore, it seems to me that a right of appeal ought to be provided against any harsh order which might be passed by any person to whom this authority might be delegated."

The Hon'ble MR. BAKER said:—"Here, again, the section is a mere reproduction of the existing law, and the Hon'ble Member has cited no case in which any inconvenience or difficulty has arisen in consequence.

"The Chairman will have no greater power of delegation in the future than he has had in the past. The power to enter on land for the purpose of depositing materials is a very small matter indeed. It is an absolute right at present in the hands of the Corporation, or rather of the Chairman under the present

[*Mr. Baker; Babu Surendranath Banerjee; Dr. Asutosh Mukhopadhyaya.*]

law. We propose that that same absolute right, which may be absolutely necessary for the proper conduct of the Corporation's work, should remain vested in the hands of the Chairman. The only matter with regard to which any right of appeal should lie is as to the amount of compensation, and for that appeal we have provided."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to point out a misapprehension. If it is the present law, it is a power vested in the Chairman which he exercises subject to the revisional jurisdiction of the Corporation. Therefore, what I propose is much less than what is provided in the present law. The Corporation can now revise any act done in this behalf by the Chairman or by any of his subordinates. I do not want to go so far. I want that the power of revision which in respect of proceedings of this kind is vested in the Corporation should be vested in the General Committee. I think the Hon'ble Member in charge of the Bill ought, after this explanation, to accept my amendment."

The motion was then put and lost.

SECTION 617.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 640 (*now* 617), after the figures "652 (*now* 632)" the words "and in the Land Acquisition Act, 1894, as amended by section 585 (*now* 557) of this Act," be inserted.

He said:—"This, Sir, is a matter of great practical importance and is intended to make clear what I cannot but believe is the intention of the law. My object is to have it made clear that a Small Cause Court is not to have any jurisdiction under section 640 (*now* 617) in cases under the Land Acquisition Act, and I am assured by the Hon'ble Member in charge of the Bill that this is precisely the intention. The section as amended will read as follows:—

'Where, in any case not provided for by section 639 (*now* 616), any Municipal authority or person is required by or under this Act or any rule, bye-law or regulation made hereunder to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided, in sections 552, sub-section (*3*), 538, 621, 638, and 652 (*now* 505, sub-section (*3*), 512, 596, 615 and 632), and in the Land Acquisition Act, 1894, as amended by section 585 of this Act, by the Court of Small Causes, on application being made to it for this purpose at any time within one year from the date when such expenses or compensation first became claimable.'

[*Babu Surendranath Banerjee; Mr. Baker; Babu Jatra Mohan Sen.*]

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think this amendment ought to be accepted. There is a general feeling in some quarters that these cases will now be tried by the Small Cause Court, and that the jurisdiction of my hon'ble friend, who so worthily presides over these cases in the 24-Parganas, may not be withdrawn, and I hope, Sir, my hon'ble friend's amendment will be accepted."

The Hon'ble MR. BAKER said:—"I quite accept the amendment."

The motion was put and agreed to.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 640 (*now* 617) the figures "522" be substituted for "552 (*now* 505)."

The motion was put and agreed to.

NEW SECTIONS.

The Hon'ble MR. BAKER moved that the following sub-heading and section be inserted, namely:—

Recovery of certain dues.

"642A (*now* 620). Any sum due to the Corporation—

(*a*) for water supplied or taken under section 252A (*now* 254) or section 254Q (*now* 270), sub-section (*1*), or

(*b*) on account of any fee imposed under section 459C (*now* 431), clause (*b*), section 483 (*now* 458), sub-section (*2*), section 497 (*now* 475) or section 540 (*now* 520), clause (*a*), or

(*c*) on account of any fee imposed under sub-section (*3*) of section 505 (*now* sub-section (*2*) of section 481) in respect of any place set apart under proviso (*iii*) to sub-section (*1*) of that section,

shall be recoverable in the manner provided by Chapter XVIIA (*now XVIII*) for the recovery of the consolidated rate.

He said: "The object of this section is to provide for the recovery of certain dues and fees which otherwise the Corporation would only be able to recover by means of a civil suit. These particular fees are the following:—

under section 252A (*now* 254) there is the cost of water supplied for non-domestic purposes,

under section 254Q (*now* 279) there is the cost of water supplied to persons residing outside Calcutta,

[*Mr. Baker.*]

under section 459C (*now* 431), clause (*b*), there are fines leviable for the removal of trade refuse,

under section 483 (*now* 458), sub-section (2), the fees for removing carcasses of dead animals,

under section 497 (*now* 475) there are fees for the use of dhobi-khanas,

under section 540 (*now* 520), clause (*a*), there is a fee payable for disinfecting public conveyances, clothing, and other articles which are infected by some dangerous disease, and

under section 505, clause (*3*) [now 484, sub-section (*2*)], there is a fee for licensing private markets.

"If we add no provision of a similar kind to this section, it would be necessary for the Corporation to file a suit in order to recover any of these dues. That is plainly undesirable, and I, therefore, propose that we should take power to recover them under the proceedings for recovery of consolidated rates."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have great pleasure in supporting this amendment. I think public dues ought to be recovered in the way the Hon'ble Member suggests. I should like, however, to ask a question, namely, whether any fee is levied on *kalisthans* or private slaughter-houses—those places in the northern part of the town where there are images of the goddess Kali, and kids are slaughtered. I want to know whether they pay any fees at all, and, if not, whether it is intended by clause (*c*) to impose any fees upon them."

The Hon'ble MR. BAKER, in reply, said:—"Section 505 (*now* 481) relates to slaughter-houses, and you will find full information as to the fees which are leviable in that section. The section was considered very fully, and was largely modified at the instance of Babu Narendra Nath Sen. The section only provides for such fee as may be prescribed by the Corporation."

The motion was put and agreed to.

The Hon'ble MR. BAKER also moved that the following sub-heading and section be inserted, namely:—

Limitation of time for appeal.

time "642B (*now* 621). In any case in which no time is prescribed by the foregoing provisions of this Act for the presentation of an appeal allowed thereunder, such appeal must be presented within thirty days after the date of the order or proceedings against which the appeal is made."

[*Mr. Baker; Babu Surendranath Banerjee.*]

He said:—"This is intended to provide a limitation for appeals. In various sections of the Bill an appeal is allowed either to the Small Cause Court or to the General Committee or in one case to the Government of India. In three cases we have prescribed in the section itself the period of appeal. Under section 26E (*now* 23) the period is 30 days; under sections 148M and 148N (*now* 162 and 163), which are appeals against assessments to the Small Cause Court, the period is also 30 days; and in Schedule III (*now* II), Rules 14 and 17, when the appeal goes to the Small Cause Court or a Bench of Commissioners, the period fixed is 15 days. But there are eight or nine other cases in which appeals are allowed, and in those cases we have not fixed any period of limitation. Therefore, it is now proposed to rule that in all cases, where no specified period is allowed, a term of 30 days shall be prescribed. Thirty days appears to be a convenient period, and, I think, that may be fairly accepted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have a small suggestion to make. There may be cases in which perhaps it may not be possible to submit an appeal within 30 days. The Hon'ble Member in charge of the Bill may not perhaps object if I suggest a small amendment, *viz.*, that after the words 'within thirty days' be inserted 'or a longer period according to the discretion of the General Committee.' Supposing a person is away in the mufassal, and he is not able to come within 30 days. These are executive and not judicial matters. In such a case a discretion ought to be given to the General Committee to prolong the period for the receipt of the application. I do not think the Hon' ble Member in charge of the Bill will object to this. And I may point out that section 5 of the Indian Limitation Act enables the Courts to exercise this discretion."

The Hon'ble MR. BAKER, in reply, said:—"The General Committee will always be able to exercise that discretion without any express provision here."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"How are we to know that? If you have a hard-and-fast rule, I do not know whether they will exercise the discretion. I think it is not sufficient to say that they have got the discretion and leave it to be inferred."

The Hon'ble MR. BAKER said:—"Would the Hon'ble Member agree to the following words being added after the words 'such appeal' in line 2 of my

[*Mr. Baker; Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Buckley.*]

amendment: 'subject to the provisions of section 5 of the Indian Limitation Act.' "

The Hon'ble BABU SURENDRANATH BANERJEE said :—"Yes, that will do."

The Hon'ble MR. BAKER said:—"In that case, with Your Honour's permission, I will make that modification."

The motion in this amended form was put and agreed to.

SECTIONS 617 AND 629.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the following motions standing in his name:—

(*1*) that the words "on the recommendation of the Corporation" be inserted after the words "The Local Government may" in line 1 of section 649 (*now* 617);

(*2*) that the words "a Municipal Commissioner or being" be inserted after the words "by reason only of his being" in section 650 (*now* 629).

NEW SECTIONS.

The Hon'ble MR. BUCKLEY moved that the following sub-heading and sections be added after section 668 (*now* 648):—

"*Special provisions as to land and buildings in Hastings.*

"668A (*now* 649). Notwithstanding anything contained in this Act, all land and buildings belonging to the Government in that part of Hastings which is included in Calcutta shall be subject to the control of the General Officer Commanding the Presidency District.

"668B (*now* 650). Notwithstanding anything contained in this Act,—

(*a*) permission to erect a masonry building in the said part of Hastings shall not be given or be deemed to have been given unless and until the sanction of the Government of India has been obtained; and

(*b*) such sanction shall not be applied for unless the plan of the building and the site-plan of the land are approved by the Commissioner of Police.

"668C (*now* 651). (*1*) If the erection or re-erection of any masonry building in the said part of Hastings is, after the commencement of this Act, commenced, carried on or completed without obtaining the sanction of the Government of India, the General Committee shall, if requested by the General Officer Commanding the Presidency District so to do,—

(*a*) by written notice direct the owner to demolish the building, or

(*b*) themselves cause the building to be demolished, at the expense of the owner.

[*Mr. Buckley.*]

(2) No person shall be entitled to any compensation on account of such demolition.

of sec. "668D (*now* 652). Section 608 (*now* 580) shall also apply when any direction is given under clause (*a*) of section 668C (*now* 651)."

He said:—"The amendment refers to the portion of the Maidan which the Hon'ble Members know as Hastings, situated in the north-west corner of the Maidan. The portion to which the amendment refers lies to the south of Clyde Row, and to the south of the new road which leads down to Tukta Ghat, and to the north of Tolly's Nala. This place was originally called 'Coolie Bazar,' and was used as a depôt of the Fort, and is still used to some extent for the residence of commissariat coolies. A special Act was passed in 1868 referring to this area, and it was incorporated in Calcutta; since that date the Act of 1876 and the Act of 1888 have both included the area in question as part of Calcutta; and in this Bill the same area is included as part of the Town. During these years several notifications were issued with the sanction of the Government of India which refer to this same part, among others, as being within Fort William in Bengal. So that Hastings since 1868 is within the limits of Calcutta, and at the same time under those notifications is within the limit of Fort William. Fort William means the Maidan *plus* the Fort. There is a special Act referring to the Fort alone, and the Maidan, which is outside the glacis of the Fort and within the limits of Fort William, is under the jurisdiction of the Government of Bengal. There are no very clear and accurate rules about this Maidan: but there are certain arrangements between the Government of Bengal and the Government of India in the Military Department concerning the action of the authorities within these limits. The Government of India has now decided to issue a new notification declaring that the southern part of Hastings will not be within Fort William in Bengal. Although this will make matters satisfactory as regards Calcutta, it does not fully satisfy the Government of India. It has always been held essential that within a certain distance of the Fort there should be a control over the erection of buildings, and the Government of India insists that there should be this control over buildings in Hastings; consequently they have directed that the Government of India in the Military Department should have a control over the construction of buildings there, and any one who wishes to build in Hastings must first get the consent of the Commissioner of Police, who will forward the application to the Government of Bengal for the purpose of obtaining the sanction of the

[*Mr. Buckley; Mr. Apcar; Mr. Baker; Babu Surendranath Banerjee.*]

Government of India. When that sanction has been obtained, all the provisions in the Bill for the construction of buildings in Calcutta will apply and will have to be carried out. These regulations have, as a matter of fact, been in force all these years, although the Members of the Corporation may not be aware of it."

The Hon'ble MR. APCAR said:—"I have no desire to follow my hon'ble friend in the circumlocution proceedings which he has described. I only wish to know whether these regulations should apply now to the part of Hastings north of Clyde Row."

The Hon'ble MR. BAKER said:—"That portion of Hastings is not within the limits of Calcutta."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"We are reduced to a somewhat anomalous position. Hastings is a part of Calcutta; we are responsible for its sanitation, and yet, when buildings have to be constructed, the application has to be made first to the Commissioner of Police, then to the Government of Bengal, and then to the Government of India, and the Government of India will send it back to the Government of Bengal, who will forward it to the Corporation! How long will this circuitous process take? When will the applicant expect to get a reply?"

The Hon'ble MR. APCAR said:—"It is for the purpose of giving the military authorities control so as not to interfere with the command by the Fort of the approaches of the river."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I don't object. I only want information. I want to point out to the Council the serious difficulties which will be placed in the way of parties making applications to build in Hastings."

The Hon'ble MR. BAKER said:—"Hastings is entirely a Government estate, and people who build there can only do so to a very small extent. It is really not a matter of any great importance."

The motion was put and agreed to.

[*Babu Boikanta Nath Sen.*]

SCHEDULE II.

The Hon'ble BABU BOIKANTA NATH SEN moved that the following amendments be made in column 3 of the table appended to rule 1 in Schedule III (*now* II), namely:—

(*1*) opposite serial number 1, for "Two hundred rupees" substitute "One thousand rupees";

(*2*) opposite serial number 2, for "One hundred rupees" substitute "Five hundred rupees"; and

(*3*) opposite serial number 3, for "Ditto" substitute "One hundred rupees."

He said:—The real question is that the fee payable by a Company or Association or body of individuals, the paid-up capital of which is equivalent to ten lakhs of rupees or upwards, should be Rs. 1,000 and not Rs. 200; that the fee payable by any other Company or Association or body of individuals should be Rs. 500 and not Rs. 100; and that the fee payable by merchants, bankers, wholesale traders, commission agents, architects, civil engineers, builders, contractors, auctioneers or carriers should remain, as in the Bill, Rs. 100. I find that the Calcutta Corporation has got stupendous drainage and other works in hand, and this Bill contemplates the carrying out of very large schemes of improvement. Funds will, therefore, be required, funds commensurate with the magnitude of the works. Where are these funds to come from? It is all very well to make provision for carrying out big schemes, but the real question is that you must have funds to carry out these schemes. The Corporation will either have to raise loans or increase its taxes. There are no other means of getting money. Even if Maharani Surnamoye were alive, she would not have been able to make a gift of money commensurate with the large works in hand. I venture to submit that large companies, rich merchants and rich bankers ought to pay much larger sums for their licenses than are provided for in the Bill. An annual payment of Rs. 1,000 will not be seriously felt by companies, merchants and bankers whose capital may range from ten to fifty or sixty lakhs. The rates and taxes of the Calcutta Municipality, I find, amount to about 46 lakhs a year, of which the European commercial community pay but a small proportion, and, if you take into consideration the amount of exports and imports, the proportion paid by them will amount to the very small fraction of ·012. Therefore, can it be said, with any degree of propriety, that it will be

unjust if these classes of Companies and Associations are called upon to pay annual license-fees of Rs. 1,000 and Rs. 500, respectively, when their profits amount, perhaps, to lakhs of rupees a year? I venture to submit that not only is there justice and fairness in such a demand, but I believe the demand of the Corporation in this respect cannot be met by any reasonable argument on the other side. The European commercial community are represented by gentlemen who have their British instincts, and they should not complain that the payment of the increased license fees, which I propose to ask them to pay, is harsh or unjust, when they consider all that the Corporation has been and is doing for them. The Calcutta Fire-brigade is maintained by the Corporation for the benefit of the owners of jute-mills and others. They enjoy these benefits, and they ought to show their appreciation of these benefits by accepting this amendment. It cannot be said that the increased amount of fees to be paid will convert the license-tax into a sort of income-tax. An income-tax is paid for Imperial purposes and for Imperial reasons; this license-tax is for purposes of local administration and for local advantages derived from the municipality. And those purposes become emphasised when it is considered that the community to be affected by the proposed amendment preponderate, according to statements connected with this Bill, in wealth and influence, and who also preponderate in representation both in the Corporation and in the General Committee; and I, therefore, venture to submit that their contributions ought also to preponderate in proportion to their wealth and influence and representation in the Municipality. I do not wish to take up the time of the Council by speaking unnecessarily, but only wish to add that this schedule does not seem to have been framed on sound principles. There is such disparity between the several provisions of this schedule, that it seems to be the product of a strong combination of injustice and anomalies. A barrister who may earn Rs. 10,000 a month pays Rs. 50 a year, while a vakil who, perhaps, makes Rs. 50 a month has to pay the same amount. I think it would be well if the Council gave its attention to the correction of this schedule. I do not think I need say anything more, except that I consider this an amendment which the Council should accept."

The Hon'ble Mr. Mackenzie said:—"Sir, so far from cordially accepting the terms of the amendment, I am as strongly opposed to it as I can possibly be, and I ask the Council to reject it, on the ground that the license-fees

at present levied on the classes named press quite heavily enough—in fact too heavily.

"The Calcutta limited companies are the main support of the municipalities in which their factories are situated—in fact, they pay for everybody else who lives in such municipalities. If a merchant pays his municipal taxes, what should it matter to the Corporation what number of agencies that merchant's office roof covers? And yet, as a matter of fact, he pays license-tax for each such agency. Take the case of tea companies, in which unfortunately big capitals usually means the opposite of large returns, and many of these cannot now meet expenditure. How could they afford to pay Rs. 1,000 for license-tax?

"If, Sir, this amendment be carried, which I hope it will not, it will be my duty to propose that on the same principle that the Imperial Government exempt machinery from import-duty, that the Corporation should exempt limited companies from fees of the kind proposed in the amendment. The growth and prosperity of limited companies in many ways lead to the prosperity of the municipality, just as machinery leads to the prosperity of the Empire; therefore they should be free to flourish exempt from taxes or charges for which the municipality do little or nothing.

"Throughout this debate, Sir, I have upheld the principle that, while we are imposing new duties and responsibilities on the municipality by reason of building regulations, &c., we should do nothing to diminish or contract the present income of the Corporation; but I should object to its being increased at the expense of those who at present contribute most largely to it, and specially so that any augmentation should be enacted without reference first being made to the Chamber of Commerce and other bodies interested."

The Hon'ble MR. BAKER said:—"I am disposed to agree with the hon'ble mover of the amendment that it will be desirable to devise some means by which a larger income will be provided for the Corporation; but I am altogether opposed to the present amendment, which simply has the effect of increasing the amount of license-tax paid by joint-stock companies. The hon'ble mover proposes that companies with a capital of ten lakhs and upwards should pay Rs. 1,000 a year, instead of Rs. 200, and those with a capital of less than ten lakhs should pay Rs. 500, instead of Rs. 100, multiplying the amount in both cases by five. But he leaves all the other items in the Schedule untouched. There are two reasons for which I cannot accept this amendment.

There is no reason why a joint-stock company, whatever its capital may be, should be taxed so highly, while private firms are left alone. A large mercantile firm often uses in its business a larger capital than joint-stock companies do, and there is no reason why one should be taxed so differently from the other. Suppose a company, with a capital of ten lakhs, makes a profit of 5 per cent., that is to say, Rs. 50,000 a year; the Hon'ble Member proposes to tax that company to the tune of Rs. 1,000 a year, so that they will have to pay 2 per cent. on their profits in the shape of a license-tax. I consider this to be very excessive taxation coming on the top of the other taxes these companies have to pay. Why should a joint-stock company have to pay a much larger tax than large commercial firms, whose income may be much larger? It would be preposterous to accept such a proposal.

"Then, as the Hon'ble Mr. Mackenzie has observed, there has been no time to consult the Chamber of Commerce on the subject, who are more interested in such matters than any one else. It is monstrous that an amendment like this should be sprung upon us at the eleventh hour, when there has been no time to ascertain the views and opinions of those who are best able to advise us on the subject. To illustrate the serious risks into which we may fall in accepting amendments like this without due consideration, I may mention that, after receiving notice of this amendment, I consulted the Chairman of the Corporation to see whether any modification could be made in this Schedule III (*now* II), and we worked out the skeleton of a new proposal. I won't trouble the Council with the figures, but when I came into the Council room I showed them to the Hon'ble Messrs. Mackenzie and Spink, and in a moment Mr. Spink pointed out the inequitable way in which it would affect the firm in which he is interested, and other firms he knew of. This shows that we should proceed in the most cautious manner in introducing any change in a matter like this. Moreover, the amendment is quite unnecessary. If Hon'ble Members will refer to section 595A (*now* 568), sub-section (*2*), they will see that power is expressly reserved to the Local Government, after due publication and consulting persons who are interested, to alter this Schedule III (*now* II), from time to time. If it appears necessary at any time to modify the classification or the rates of license-fee, it is open to the Government, with the assistance of the Corporation, to frame a proposal for the amendment of the schedule. I hope the Council will reject this amendment of the Hon'ble Member if he sees fit to press it."

[*Mr. Spink; Babu Surendranath Banerjee.*]

The Hon'ble MR. SPINK said:—"I should like to point out that for the most part joint-stock companies are the last whose license-tax should be increased. The bulk of the share-holders of joint-stock companies are resident out of Calcutta, and the field of their operations is also out of Calcutta; therefore they do not benefit by any improvements which the Corporation may make. It is merely the fact that the offices of the Agents of these Companies are in Calcutta that makes them amenable to the payment of the license-tax. Many of them are in difficulties, and it would be a serious penalty on them to increase the amount of their license-tax to any great extent. I know that there are great inequalities in this schedule, and I think there are a great many others who can more readily bear an increase of the tax than joint-stock companies. My hon'ble friend, the mover of the amendment, has hit upon the very worst item of the schedule for an increase of taxation, and for that reason I object to this amendment very strongly."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I cannot admit that an amendment of this kind should not have been made at this stage. The Hon'ble Member comes new to this Council; he was not a member of the Select Committee, and it is not necessary to give notice of an amendment for more than two days previous to a meeting of the Council. Therefore, if any Hon'ble Member, by giving notice of an amendment according to the rules, places the Hon'ble Member in charge of the Bill in a difficult position, he has no right to complain. I am of opinion that the Hon'ble Member has done a distinct service to the Corporation and the Council by bringing this amendment forward, because he has been instrumental in eliciting an important expression of opinion from both the Hon'ble Mr. Mackenzie and the Hon'ble Mr. Spink, who agree in thinking that the schedule, as it now stands, is an iniquitous schedule. If the Hon'ble Member had not given notice of this amendment, this expression of opinion would have been lost to us. It would never have been elicited but for this amendment. Therefore, I do not think the Hon'ble Member in charge of the Bill has any right to complain of the amendment. On the contrary, he ought to be thankful for this amendment having been brought to the notice of the Council. I quite agree that this is a difficult matter, that it should be exhaustively gone into, and that it should be carefully discussed; but I cannot agree that the Chamber of Commerce and the Trades Association should be alone consulted to the exclusion of the other public bodies. The fact must

be admitted that the European commercial community—I say this with all possible respect to the Hon'ble Mr. Mackenzie and the Hon'ble Mr. Spink—now that they are about to obtain a preponderance of representation in the Corporation, do not pay a proportionate amount of taxation to the Corporation. Their influence in the General Committee ought to be proportionate to the amount of taxation they pay. They pay about 2 per cent. of the municipal taxes, and they will monopolise all power in the Corporation. That does not commend itself to my notions of the fitness of things, and I am sure it will not commend itself to the sense of justice of the European commercial community. I was expecting a cordial greeting being accorded to the proposal of the Hon'ble Babu Boikanta Nath Sen from my hon'ble friends to the right (Messrs. Mackenzie and Spink), because this proposal seeks to remove the inequalities and injustice resulting from this Bill, and, therefore, this proposal ought to have commended itself to their instincts of justice. The proposal in its present form may not be accepted, but my hon'ble friends ought to have considered it in the spirit in which it was made. The Hon'ble Member in charge of the Bill admits the inequalities in the schedule. A barrister who earns Rs. 10,000 a month pays Rs. 50; a barrister who does not earn even Rs. 50 a month pays the same amount. All taxation, says Mill, whose *dictum* you have accepted, ought to be proportionate to the sacrifice which a person or a community ought to be called upon to make. I will not detain the Council longer, but I do say that this is a matter deserving consideration, and if my hon'ble friend will hold out the hope that within a measureable distance of time the Government, of which he is the adviser, will undertake the duty of revising the schedule, I think the Hon'ble Babu Boikanta Nath Sen will withdraw his amendment."

The Hon'ble BABU BOIKANTA NATH SEN, in reply, said:—"After what has been so ably put forward by the last speaker, it is not necessary for me to add anything more than this, that I only want to explain why I picked out these two items in the schedule for increased taxation. I saw that there was injustice in the schedule from beginning to end; but I thought these two were cases in which the insufficiency of the taxation could easily be remedied, while at the same time it would bring in a perceptible increase of income to the Corporation. That is my sole object. But after what has fallen from the Hon'ble Member in charge of the Bill, and as I see that section 595A (*new* 568), sub-section (2), does afford the means of making alterations in this schedule, if the Hon'ble Member

[*Babu Boikanta Nath Sen; Dr. Asutosh Mukhopadhyaya; Mr. Baker; Babu Surendranath Banerjee; Babu Jatra Mohan Sen.*]

will hold out hopes that justice will be done within a reasonable distance of time, I am quite willing to withdraw my amendment."

The motion was then put and lost.

SCHEDULES IV AND V.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved—

(*1*) that the words "body corporate" be inserted after the word "company" in rule 2, rule 3, sub-rule (*5*), rule 7, sub-rule (*4*) (*now* rule 8), and rule 8 (*now* 9), sub-rule (*9*), of Schedule IVA (*now* IV), and that the words "bodies corporate" be inserted after the word "companies" in rule 3, sub-rule (*4*), of the same schedule.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that the words "body corporate" be inserted after the word "company" in clause (*5*) of rule 6 of Schedule IVB (*now* V).

He said:—"These are consequential amendments, rendered necessary by the acceptance of previous amendments."

The Hon'ble MR. BAKER said:—"I accept these amendments."

The motions were put together and agreed to.

SCHEDULE IX.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "owner or occupier of a market or bazar" be added to Part I of Schedule VIA (*now* IX).

He said:—"This schedule deals with the scavenging-tax and the persons who have to pay it. They are hackney-carriage owners, carters, &c. I wish to add 'the owner or occupier of a market or bazar,' who pays this tax now."

The Hon'ble MR. BAKER said:—"I accept the motion."

The motion was put and agreed to.

SCHEDULE X.

The Hon'ble BABU JATRA MOHAN SEN moved that in Schedule VII (*now* X) after the words "if the said sum is not paid into the Municipal Office at," the words "or to an officer appointed to receive the same" be inserted.

[*Mr. Baker; Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

The Hon'ble MR. BAKER said:—"I accept the motion as a consequential amendment."

The motion was put and agreed to.

SCHEDULE XV.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "where necessary" be inserted after the word "provided" in line 2 of clause (*4*) of rule 13 of Schedule XIIA (*now* XV).

He said:—"Where the drain is ventilated throughout the whole length, or in such a manner that the portion beneath a building is ventilated, I think it is not necessary to have ventilators. I consulted the Superintendent of the Drainage Department before proposing this amendment. It gives a discretion, but does not take away any authority."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

SCHEDULE XVII.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, moved that in clause (*b*) of rule 1 of Schedule XIVA (*now* XVII) for the words "filled-up tank" the words "tank which has been filled up otherwise than with pure earth or equally good material" be substituted.

He said:—"It is the present practice to allow huts and masonry buildings to be built on tanks filled up with pure earth. Many buildings have been so allowed since 1889. It will be hard on the owners of tanks if they are not allowed to let them out when filled up with pure earth."

The Hon'ble MR. BAKER said:—"Under this amendment a filled-up tank may be used as a site for building upon, although it is not considered safe to do so by the Engineer. Therefore I cannot accept the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I understand that this amendment only refers to buildings on the sites of tanks filled up with pure earth. Speaking from memory, my impression is that our bye-laws provide that, if a tank has been filled up with refuse, the site is not allowed to be built upon for a period of twenty years, but if a tank is filled up with good earth the

[*Babu Surendranath Banerjee; Mr. Baker; Mr. Buckley; Mr. Bolton; Babu Boikanta Nath Sen.*]

condition of things is quite different. It is obvious that in the former case the site should not be used until the refuse is thoroughly decomposed, but if a site has been filled up with good earth you ought to be allowed to build upon it at once."

The Hon'ble MR. BAKER, in reply, said:—"The words used in the bye-law are 'street or other refuse.' I am in the hands of the Hon'ble Mr. Buckley in this matter, and, if he thinks this may be allowed, I have no objection. The question was discussed in the Select Committee, and we came to the conclusion that the rule should stand as it is."

The Hon'ble MR. BUCKLEY said:—"There are certain objections to building on ground recently filled up even with good earth. The present bye-law fixes twenty years as the period during which a site filled up with refuse cannot ordinarily be built upon, but with the consent of the General Committee the period may be reduced to ten years if the state of the soil after investigation be found to be fit to build upon."

The Hon'ble MR. BOLTON said:—"The provision in the Bill prohibits building for ten years if the site is not insanitary; but if the site consists of good earth, I do not see why building should not be permitted at any time."

The Hon'ble MR. BAKER said:—"I have to point out that the Hon'ble Babu Boikanta Nath Sen has an amendment proposing to reduce the period from ten years to two years."

The Hon'ble BABU BOIKANTA NATH SEN moved that in line 5 of clause (*b*) of rule 1 of Schedule XIVA (*now* XVII) "two years" be substituted for "ten years."

He said:—"I thought that this, coupled with the Chairman's certificate that the site is fit to be built upon, ought to be sufficient."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The two amendments stand on a different footing. Why should there be a lapse of even two years, if it is a site filled up with good earth? If there are engineering difficulties, the Engineer's Department will take care not to give their sanction."

[*Mr. Buckley; Mr. Baker; Babu Boikanta Nath Sen.*]

The Hon'ble MR. BUCKLEY said:—"I do not think we should allow building within two years even if the site is of good earth. Excavations even in good soil occasionally produce fever. I recommend that the provision should stand as it is."

The Hon'ble MR. BAKER said:—"There are two conditions implied in the provision which the Hon'ble Babu Boikanta Nath Sen wants to amend,—first, that the site must have been filled up ten years previously; and, secondly, that the Chairman must give his certificate; therefore, the investigation cannot begin until ten years after the tank was filled up. The case put by the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, refers to a site filled up with good earth. I do not wish to accept the latter amendment, but, unless the Hon'ble Mr. Buckley objects, I would accept the substitution of two years for ten years in line 5 of clause (*b*) of rule 1 of Schedule XIVA (*now* XVII)."

The Hon'ble MR. BUCKLEY said:—"It would not be safe to reduce the period to less than five years."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I must consent to modify my amendment by substituting "five years" for "two years."

The motion in the amended form was then put and agreed to.

The last motion having been carried, the Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew his motion for the amendment of Schedule XIVA (*now* XVII), rule 1.

The Hon'ble MR. BUCKLEY moved that in sub-rule (*2*) of rule 2 of Schedule XIVA (*now* XVII) the words "which is re-erected" be inserted after the word "building," and that the words "erection or" in the proviso to the same sub-rule be omitted.

He said:—"This is a matter which affects the height of a building. The Building Commission in their report (page 19, paragraph 56) reported in favour of having all houses—new houses as well as houses re-erected and altered—reduced to what is known as the 45° rule; in other words, the top of a house standing on one side of a street is not to intersect a plane drawn from the other side of the street at an angle of 45° with the plane of the ground, which means that the house is to be of the same height as the width of the road. In the

Select Committee this recommendation of the Commission was modified, and the Bill was altered in so far that we allowed a house to be made rather higher in certain streets than the Commission recommended: we introduced this sub-rule (*2*) that in the case of a building in any street in existence which is less than 25 feet wide, the angle shall be 56½° and not 45°, which means that the house may be half as high again as the width of the street. The Building Commission wished to maintain the 45° rule everywhere, but the Select Committee, while it intended that the 45° rule should apply to all new houses in all streets, wished to allow existing houses in narrow streets to be re-erected up to their existing height or up the 56½° rule whichever was less. But the sub-rule (*2*) and the proviso as they are worded have this effect: they limit houses between the 45° and the 56½° angle to their present height, but they allow new houses to be built to 56½°. If a man has a house intermediate between the two, he can re-erect or alter it up to the present height; but the man who constructs an entirely new house would, as the rule is worded, be able to build it up to the 56½° height. That was not intended either by the Commission or by the Select Committee, and the wording, as I now propose to alter it, will allow a building on an entirely new site only to be built up to the 45° rule."

The motion was put and agreed to.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the motion, standing in his name, that the words "and also so far as it will abut or abuts upon the narrower of such streets to a distance of 40 feet from the wider street" in sub-rule (*4*) of rule 2 of Schedule XIVA (*now* XVII) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE moved that to rule 6 of Schedule XIVA (*now* XVII), the following be added:—

"(*2*) Subject to the approval of the General Committee, a verandah may be erected upon the space between such line and alignment."

He said:—"As the verandah would be left open, I do not think there should be any objection to this amendment."

The Hon'ble MR. BAKER said:—"I am entirely in favour of this amendment, provided that the words 'an open verandah' be substituted for 'a verandah.'"

The motion in this amended form was put and agreed to.

[*Babu Surendranath Banerjee; Mr. Buckley.*]

The Hon'ble BABU SURENDRANATH BANERJEE moved that clauses (*b*) and (*d*) of rule 13 of Schedule XIVA (*now* XVII) be omitted.

He said:—"It must not be supposed that I consider this to be an unimportant matter, but I think a matter like this should be the subject of bye-laws. In allowing the Chairman to fix the proportions of the mortar to be used there is the danger of his delegating the power to a subordinate. Neither the Chairman nor the Engineer will see these rules carried out, but some subordinate; and the proportions of materials in the mortar will depend sometimes on the amount paid to him. There ought to be bye-laws which lay down those proportions and fix the thickness of the walls. At present these matters are regulated by bye-laws. I object entirely to open a door to the blackmailing of poor people."

The Hon'ble MR. BUCKLEY said:—"The question of fixing the proportion of materials forming the mortar [clause (*b*)] is not of great importance. The Chairman will prescribe generally what the nature of the mortar is to be; there will be two classes of buildings, and the general specification will be followed. But clause (*d*) is important, and the Corporation have at present most elaborate rules with reference to the thickness of walls at various heights, and in Bombay —and certainly in London—they are elaborately prescribed. I think clause (*d*) should certainly remain."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"If these things are made the subject of bye-laws, the Chairman will have nothing to do with the matter. They are regulated by bye-laws at the present moment, and in Bombay it is the same; then why should it not be done here?"

The motion was then put and lost.

The Hon'ble MR. BUCKLEY moved—

(1) that to the sub-heading "*Part IV.—Dwelling-houses,*" above rule 17 in Schedule XIVA (*now* XVII), the words "*and other domestic buildings*" be added;

(2) that in rule 20 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house;"

[*Mr. Buckley.*]

(3) that in sub-rule (*1*) of rule 22 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house," and that throughout the said rule 22 the word "building" be substituted for the word "house;"

(4) that in rule 23 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house" in both places in which they occur, and that the word "building" be substituted for the word "house;"

(5) that the following amendments be made in rule 24 of Schedule XIVA (*now* XVII), namely:—

(*1*) in sub-rule (*1*) substitute the words "domestic building" for the words "dwelling-house;"

(*2*) in sub-rule (*1*) substitute the words "the buildings" for the words "the house and such building;" and

(*3*) in sub-rules (*1*) and (*2*) substitute the words "the said domestic building" for the words "the house."

(6) that in rule 26 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house;"

(7) that the following clause be inserted in section 3, namely:—

"domestic building" includes a dwelling-house or any other masonry building which is neither a "building of the warehouse class" nor a "public building" as defined in this section.

He said:—"Those matters are important in one sense and in another sense they are merely verbal amendments. The Calcutta Building Commission in their report, paragraph 117, made certain very important proposals about the space to be allotted at the back and sides of a building. In their report they used the word 'building' in some places and 'house' in other places, meaning that the stipulations with regard to space should apply to all classes of buildings and houses, and in their draft Bill, from which the sections in question are taken [section 42, sub-section (*9*)], the Building Commission used the word 'house;' so that the sections to which I am referring were not restricted in any way by the Calcutta Building Commission, and in that sense these clauses were passed and approved by the Select Committee. But when the sections of the draft Bill of the Building Commission were actually incorporated into the draft Bill in Select Committee, we did not use the word 'house,' but

the expression 'dwelling-house.' The word 'house' has no technical meaning: the expression 'dwelling-house' has a technical meaning in the Bill. It has thus come about that the Bill before the Council conveys a different meaning from the Bill drafted by the Commission, and a different meaning to that which the Select Committee intended to give it. The difference is very material. The expression 'dwelling-house' only means a house in which people live, and it does not include a stable, or a shop, or a cook-house or such other buildings. The space which is specially provided at the back of all houses is intended to be a continuous open space to give a draught of air along the back of the row of houses, and it is necessary that this open space should be continuous. It is necessary therefore, and it was intended, that it should be at the back of all houses and not only at the back of 'dwelling-houses.' As the Bill stands, if there were a shop in a line of buildings it would not be obligatory to have a space at the back of it, and the continuity of the open space would be broken. The same remark applies, to a certain extent, to the spaces which are prescribed in the Bill at the sides of houses. The amendments which I now propose introduce the word 'domestic building': this is not quite as wide a term as 'house,' but it will include all houses which should have the prescribed spaces at the back or sides. The amendment will substantially give effect to the intentions of the Building Commission and the Select Committee."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am prepared to accept these amendments, provided the Hon'ble Member excludes places of private worship. I understand he is prepared to make that reservation on behalf of Hindu temples, and, if so, I am prepared to accept these amendments."

The Hon'ble MR. BAKER said:—"If the Hon'ble Mr. Buckley has no objection, I will raise none to the exclusion of private places of worship from the category of domestic buildings. I myself do not favour their exclusion, for I am not sure that these private places of worship have any special claim to exemption from the rules in this schedule."

The Hon'ble MR. BUCKLEY, in reply, said:—"My view is that if a person is living in a place which is said to be a place of private worship, it ought not to be excluded; but in view of the strong opposition of the Hon'ble Babu Surendranath Banerjee, I will not object to exclude places of private worship."

[*Mr. Baker; Babu Surendranath Banerjee; Mr. Buckley.*]

The Hon'ble MR. BAKER said:—"In that case I will move that the following clause be inserted in section 3:—

'"domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse class" nor a "public building," as defined in this section, nor "a place exclusively used for private worship."'"

The last motion in the amended form was put and agreed to.

The preceding motions for the amendment of Schedule XIVA (*now* XVII), Part IV, standing in the name of the Hon'ble Mr. Buckley were then put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "enclosed" be inserted between the word "and" and the word "verandahs" in line 4 of rule 21 of Schedule XIVA (*now* XVII).

He said:—"The space occupied by open verandahs should not be taken into account, and, if there are open verandahs, allowance should be made for the space occupied by the courtyard."

The Hon'ble MR. BUCKLEY said:—"I do not think this amendment can be accepted. In many ways, as I said before, the proposals of the Calcutta Building Commission have been minimised in Select Committee. We have given way, here and there, little by little, on representations made by members of the Corporation, who wish to whittle away as much as possible the recommendations of the Calcutta Building Commission, to which so much trouble and thought were given. The open spaces in court-yards are very much smaller than the Commission would allow, and I am very unwilling to make any further concession. I may say that the rule as it stands at present in the bye-laws of the Corporation is one-fourth of the aggregrate floor area of all the rooms abutting the court-yard, and that area probably does not include verandahs."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I quite admit the concessions which have been made, but they do not come to the full extent of our demands. These are new regulations altogether, and they have created a considerable degree of alarm. We ought, therefore, to proceed with great caution. A few more concessions will allay public excitement, and in that hope and confidence I suggested a few amendments in Select Committee."

The motion was then put and lost.

[*Babu Surendranath Banerjee; Mr. Buckley.*]

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or on the sides" be inserted after the word "rear" in line 3 of rule 22 of Schedule XIVA (*now* XVII).

He said:—"This open space, I suggest, should not only be in the rear, but, subject to the discretion of the Chairman, such open spaces might be left on the sides. There is a danger in this provision which my hon'ble friends do not realise. If you leave an open space in the rear, sometimes it may form a *cul de sac*, and it will be difficult for conservancy carts to approach these open spaces; whereas, if you have spaces on the sides subject to the discretion of the Chairman, you may secure ventilation much more effectively than by the uniform rule that in every case the open space must be in the rear. I am afraid the Hon'ble Mr. Buckley and the Hon'ble Member in charge of the Bill are too inexorably wedded to English ideas to depart from them. Open spaces in England must be at the back: we all know that. But I submit there would be a distinct advantage if discretion was given to the Chairman to modify this rule by allowing open spaces at the sides in preference to open spaces in the rear."

The Hon'ble MR. BUCKLEY said:—"I object most strongly. This proposal is entirely opposed to the theory of the open spaces at the back. The Building Commission went very fully into the matter. The idea is to let the wind in in a line at the back. If you allow open spaces to be either at the back or at the sides, you prevent the free current of air along the back of the houses, and obstruct ventilation; you may entirely shut out all air."

The motion was then put and lost.

The Hon'ble BABU SURENRANATH BANERJEE moved that the word "eight" be substituted for the word "ten" in line 5 of sub-rule (*2*) of rule 22 of Schedule XIVA (*now* XVII).

He said:—"Under the existing bye-laws you are obliged to keep 4 feet open space at the rear. This rule provides for 10 feet; I suggest 8 feet: I give double the extent of the open space provided under the present law. The Hon'ble Member in charge of the Bill was at one time prepared to accept this amendment coupled with a condition which we were not able to accept. You provide for ventilation in such a variety of ways that if you make this small concession you do not lose anything."

[*Mr. Buckley; Mr. Baker; Babu Surendranath Banerjee.*]

The Hon'ble MR. BUCKLEY said:—"We have conceded and conceded and conceded; and yet the Hon'ble Member is not satisfied. It is perfectly true that the Hon'ble Member in charge of the Bill did at one time agree to make this concession, subject to a certain condition; but, not having agreed to make a concession on his side, the hon'ble mover of the amendment wants a concession to be made on our part. There is a rule that no one can be allowed to build on more than two-thirds of the area of the land, and that, in most cases, makes the open space 10 feet or more. A space of 10 feet is laid down in the London Building Act, and it is a reasonable figure. The sections drafted originally by the Commission were most complicated and intricate. I am quite satisfied that 10 feet is a reasonable minimum space. It is the minimum in London, where you do not need so much ventilation as you do in a tropical climate; and we have conceded quite as much as we should have done."

The Hon'ble MR. BAKER said:—"The rule in London is not only 10 feet but 63½°, therefore the height of a building cannot be more than twice the width of the space at the back. That affects the position very much. In the Select Committee, I offered to agree to 8 feet, if that was accepted as a final settlement of the whole question. The Hon'ble Member refused to accept this, and the suggestion therefore dropped."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The bargain was that we should not raise this question in Council."

The Hon'ble MR. BAKER said:—"The proposal was offered as a settlement of the whole question."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"But my recollection is that we were not to raise this question and possibly other questions in Council, and if we consented we were to have a minimum of 8 feet. I do think, as representatives of the rate-payers, we ought to have the liberty to raise whatever questions we think fit connected with the details of the Bill. Now with regard to the London minimum, the two things are distinctly different. In London, houses have not any court-yard at all; in most Indian houses we have a court-yard. The arrangements of Indian families require two separate apartments, one for the males, the other for the females, and necessarily there would be a courtyard and this open space between. You insist upon the

[*Babu Surendranath Banerjee; Raja Ranajit Sinha, Bahadur, of Nashipur; Mr. Baker.*]

ondon rule despite the fact that we have there open spaces which the London le does not require and does not provide for. Often there are two courtyards, id therefore you ought not to need a minimum of 10 feet. That is the gical position, and I think I have a right to ask the Council to accept that sition. We ought not to stick to the London rule bearing in mind the tally different circumstances of houses in Calcutta and in London."

The motion was then put and lost.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, moved—

(1) That in line 5 of clause (*a*) of rule 27 of Schedule XIVA (*now* XVII), the word "six" be substituted for the word "twenty."

(2) That clause (*b*) of rule 27 of Schedule XIVA (*now* XVII) be omitted.

He said:—"Rule 43 lays down that no portion of a hut shall be placed thin 6 feet of a masonry building, but under rule 27 the owner of the land a bustee on which a dwelling-house is to be erected must give up all land ich may be required so as to have a space of 20 feet in front of and along entire length of the boundary line of the premises. It appears to me that se two provisions are inconsistent, and that it will be very hard if 20 feet space to be left in front of a building. I therefore move these two amendments."

The Hon'ble MR. BAKER said:—"There is no inconsistency. Under rule 43 re is a provision that no portion of a hut shall be placed within 6 feet a masonry building. It contemplates the previous existence of a masonry ilding, and in that case you cannot erect a hut within 6 feet of that building. t clause 27 provides for the case of a dwelling-house newly constructed in a stee. We have provided by section 347 (*now* 356), clause (*2*), that the width of posed streets shall not be less than 40 feet. Now the erection of a masonry se is the first step in converting bustee land into ordinary land, and every se constructed in that way must abut on a street and the street must be 40 feet le; therefore you must provide along the length of the front of the premises of h masonry building erected in a bustee an open space of 20 feet, so that when ouse is built on the opposite side and 20 feet is in the same way left in front the entire length of the premises of such house, you will have a complete

street of 40 feet. Unless you have such a rule, the rule that every new street must be 40 feet wide will be totally inoperative."

The first motion was then put and lost.

The second motion was then, by leave of the Council, withdrawn.

The Hon'ble MR. BUCKLEY moved that the figures "18" in rule 29 of Schedule XIVA (*now* XVII) be omitted.

He said:—"This is a clerical mistake. Rule 18 is not applicable to warehouses, and ought not to have been referred to in this section."

The motion was put and agreed to.

The Hon'ble MR. BUCKLEY also moved that in rule 29 of Schedule XIVA (*now* XVII), the words "domestic buildings" be substituted for the words "dwelling-houses," and that the words "which are not situated in a locality which has been set apart, by direction under section 365 (*now* 367), for the erection of buildings of the warehouse class" be added after the words "warehouse class."

He said:—The Hon'ble Babu Surendranath Banerjee was complaining that we are so very uncompromising that we do not make concessions. In this amendment I am offering him a concession. Rule 29 provides that the provisions of rules 22, 24 and 27 shall have effect in the case of buildings of the warehouse class. The effect of this would be that in the case of all warehouses it would be necessary to leave the spaces at the rear and sides which are defined in those rules. The amendment which I propose modifies this and makes the rule less strict. The effect of the amendment will be thus: that where a building of the warehouse class is situated in contact with a domestic building, that warehouse will have to be provided with the space at the back which is necessary for ventilation; but, if the warehouse is situated in a part of the town deliberately set aside for warehouses, the space will not be obligatory. In that case a space at the back is not so necessary as when a warehouse is erected in an inhabited part of the town."

The motion was put and agreed to.

The Hon'ble MR. BUCKLEY moved that in the second line of rule 50 of Schedule XIVA (*now* XVII) the words "any building which was erected before

[*Mr. Buckley; Babu Surendranath Banerjee.*]

commencement of this Act" be substituted for the words "a building," and clauses (*a*) and (*b*) of the said rule be omitted.

He said:—"This is very little more than a verbal alteration. Rule 50 rs to the case of applying rule 2 where you are altering a building. The ndment proposes that instead of the word "building" the words "any ding erected before the commencement of this Act" should be used. The t of the rule will be that, in the case of any building erected before the mencement of this Act, the rule of 56½° shall apply instead of the rule of 45°. t is the intention of the rule as it stands, reading it with the sub-rule (*a*)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I understand that the ct of the amendment is merely to more clearly express the law, and that ations to the building will come within the 56½° rule."

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clauses (*a*), (*b*), (*c*) (*d*) of rule 52 of Schedule XIVA (*now* XVII) be omitted.

He said:—"This is a somewhat important matter, and I think we have a to some sort of compromise. Rules 31 to 36 prescribe important rules ying to the erection of buildings; rules 47 to 49 apply to the erection of I suggested that these rules ought not to apply to necessary alterations. was accepted, but certain reservations were made, and they are stated in rule. I suggest that the reservations contained in clauses (*a*) to (*d*) be omit- I think that the construction of a roof or a party-wall is a necessary er, or any repairs which involve the reconstruction of a masonry wall, &c., losing of an opening in a wall, or the construction of an internal wall or tion. I ask that this amendment be accepted in view of the compromise has been come to."

After consultation with the Hon'ble MR. BUCKLEY, the Hon'ble BABU NDRANATH BANERJEE moved, in lieu of the above amendment, that the ving amendments be made in Schedule XIVA (*now* XVII), rule 52, ly:—

(1) in clause (*a*), omit the words "or re-erection";

(2) in clause (*b*), omit the words "a ceiling";

(3) in clause (*c*), for the word "opening" substitute the words "door or window."

The Hon'ble MR. BAKER said:—"I accept the amendment as modified."

The last motion was then put and agreed to.

SCHEDULES XIX AND XX.

The Hon'ble BABU SURENDRANATH BANERJEE also moved—

(*1*) that in Schedule XVIII (*now* XIX) a column be added for the heading "Where born" after the column headed "When born;"

(*2*) that in Schedule XIX (*now* XX) a column be added for the heading "Name of medical attendant, if any, during last illness" after column 8.

He said:—"This is the present practice. The object is to ascertain where the birth took place."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motions were put together and agreed to.

SECTION 3.

The Hon'ble MR. BAKER moved that the last eight words of clause (*5*) of section 3 be omitted.

He said:—"This clause contains the definition of a bustee, and the last eight words of the clause are 'and are not separately numbered in the assessment-book.' Those words do not occur in the existing law, and the effect of their insertion will be to enable an unscrupulous owner of a bustee to defeat the law. Suppose a man has 27 cottahs of bustee land with huts on them, the whole being registered in one name and bearing one number. Suppose he collusively subdivides the 27 cottahs into three plots and gets two of the plots registered in the name of two of his tenants. Then the whole of the 27 cottahs ceases to be bustee land."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I agree with my hon'ble friend. But this is the definition of the Building Commission, whose wisdom has been our wisdom in a variety of matters."

The motion was put and agreed to.

[*Mr. Baker.*]

The Hon'ble MR. BAKER also moved that in clause (*22*) of section 3 the word "material" be inserted between the word "no" and the word "portion."

He said:—"The Chairman of the Corporation pointed out to me that the effect of not inserting the word 'material' will be that if a man inserts half a dozen bricks above the plinth in any corner of a hut, it will no longer be a hut. It is quite clear that the word 'material' should be inserted."

The motion was put and agreed to.

RE-NUMBERING OF SECTIONS OF BILL.

The Hon'ble MR. BAKER moved that the Secretary be directed to re-number in consecutive order the Chapters, Schedules and clauses of the Bill, and to make corresponding alterations in all cross-references thereto.

He said:—"That is a purely formal motion. The numbering of the Bill remains as we settled it in Select Committee, as we thought it should be more convenient for the majority of the Council not to at[illegible] to re-number the sections of the Bill until the clauses of the Bill are settle[illegible] the Council; but it was never intended that the Bill should remain in its [illegible]nt form. It was always contemplated that consecutive numbers would [illegible]en all through the Bill, and that will now be done."

The motion was put and agreed to.

The Council was then adjourned to Wednesday, the 2[illegible] September, 1899.

CALCUTTA;
The 16th January, 1900.

F. G. WI[illegible]EY,
Assistant Secy. to the [illegible]vt. of Bengal,
Legislative Dept.

Reg. No. 787G—300—5.3-1900.

[*Mr. Baker.*]

THE CALCUTTA MUNICIPAL BILL.

The Hon'ble MR. BAKER moved that the Calcutta Municipal Bill, as amended by the Council, be passed.

He said:—"I do not think the Council will expect me, at this stage, to enter upon a lengthy vindication of the Bill. Some of my hon'ble friends opposite propose, I understand, to take this opportunity of expressing once more their disapproval of the measure; but for my part I regard the motion as almost entirely formal. The Bill has been scrutinized and examined with the greatest minuteness. Its guiding principles were settled after the full and interesting debate in March and April, 1898, and were revised after the debate of last month. Its details were criticized and reviewed with almost unprecedented elaboration by the Corporation itself, and by the numerous public bodies and associations to whom it was referred. In the Select Committee, whose sittings extended over more than five months, it was again subjected to a most searching examination, with the result that large sections of it were wholly recast, nearly 1,000 modifications, great and small, having been introduced. And finally for the past three weeks this Council has been engaged almost continuously in considering an army of proposed amendments, nearly 600 strong, sifting out the wise from the unwise and incorporating all suggestions of value. To urge now that we should not pass the measure on which so much pains and thought have been expended, and that we should deliberately throw away the fruit of our long-continued labours, is surely to stultify ourselves completely. It must be obvious to all that such a course is not to be thought of.

"And, Sir, I think I may fairly maintain that the Bill as it now emerges from the final consideration of the Council is a better Bill than that which was originally introduced—a stronger and more workable measure. The cardinal principle of the original Bill was the creation of three co-ordinate authorities,—the Corporation, the General Committee and the Chairman,—and the distribution between them of the functions most appropriate to each, each of them being made independent within its own sphere. This principle we have endeavoured to preserve intact. But, in addition to this, we have incorporated a number of improvements of much practical value. In the first place, we have been able to get rid of the incongruity between the composition of the Corporation and that of the General Committee, which was a prominent feature of the original Bill. This incongruity attracted more unfavourable

criticism than perhaps any other provision of the first scheme; and I am at liberty to confess that I personally regarded it from the first with grave misgiving, as the fatal flaw in the girder which might at any moment bring the whole structure about our ears. Then, we have made provision for the adequate representation, relatively, of those great commercial interests which have literally created modern Calcutta, but which, when left to the chances of election, have found themselves hopelessly out-numbered. Again, we have devised a scheme of central control, which is as simple, ready and effective as we can make it, and under which the Government will no longer be subject to the reproach that it is responsible but powerless. On the other hand, we have restored to the Corporation an effective power of control in matters of finance—a power which under the first draft of the Bill they possessed only in name. We have also secured to them the power of subordinate legislation, of which it had been proposed to deprive them altogether. Turning from matters of procedure to matters of substance, we have endeavoured to provide Calcutta with an effective building law, based on the most approved modern models, in lieu of the confessedly imperfect and inoperative regulations which have so conspicuously failed to control the expansion of the city during the past ten years. And by the legal device, for which the Council are indebted to Mr. Wigley, of placing the bulk of the detailed rules in a statutory schedule which can be amended from time to time, we have secured the elasticity which is so essential when we are regulating matters which touch the daily lives of the people. In respect of the water-supply, of conservancy, of drainage, of the registration of births and deaths, and of a multitude of minor but important matters of municipal administration, an endeavour has been made to secure a substantial advance based on experience both here and elsewhere, while at the same time avoiding innovations likely to excite reasonable popular apprehension. How far we have been successful time alone can tell; but I can conscientiously affirm that we have done our best to give heed both to the lessons of experience and to the admonitions of all reasonable critics, and that, alike in the Select Committee and in this Council, it has been our consistent endeavour to hold the balance true.

"It is significant, and also a little disappointing, that, of the multitude of amendments which it has been our duty to consider, so large a proportion has been devoted to the merely constitutional portions of the Bill, and so few,

comparatively speaking, to those which seek to make provision for the public health, safety and convenience. And in this fact, whether we regret it or not, is to be sought the answer to the protest of the Hon'ble Surendranath Banerjee when he complained that so many of his amendments had been rejected by the Council. It is not to be supposed that the Government of Bengal, which is responsible for the administration both of the Province and of the Calcutta Municipality, would set its hand to a measure of legislation such as this without first making up its mind as to the evils to be remedied and the general outlines of the remedy to be applied. Speaking for myself, Sir, I hold the view that, whatever the theory may be, from the very necessity of the case, this Council is, and must be, a subordinate Legislature. It can have no authority to enact any measure the broad principles of which have not been endorsed and accepted by the Government of the day, with which all ultimate responsibility rests. When the principles of any measure have after due consideration received the sanction of the executive Government, the function of the Council is confined to settling the details. And it is an idle task for any Member to endeavour, by any application of the forms of legislation, to defeat those principles or render them nugatory. I feel sure that the Hon'ble Members who have filled the notice-paper with sheaves of amendments, the avowed object of which was to uproot the very foundations of this Bill, never in their own hearts felt any doubt as to what must be their inevitable fate. In so far as they addressed themselves not to the structure of the municipal machine, but to the work which the machine was required to do, the reception of their suggestions and amendments has been very different. It is apparent to all who have followed the proceedings of this Council during the last three weeks that every amendment dealing with the departmental provisions of the Bill has received open-minded and impartial consideration at the hands of Government, and that a substantial proportion of them has been accepted and embodied in the new law. That, Sir, is, I conceive, in strict accordance with the true functions of this Council.

"It has been asserted that the present measure is destructive of the true principles of local self-government, and that, if it is enacted, nothing will remain of local self-government but the name. You, Sir, in your addresses, on the 14th November, 1898, and again on the 7th August last, have exposed the misconception on which this charge is based. You have shown that what

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we are now doing is merely to change the form of self-government, and to replace a system which experience has proved to be defective by another more adapted to the needs of the time. I should like to go even a little further than that; for I maintain that the change which we are now effecting is itself a real and striking recognition of the depth to which the principles of local self-government have struck their roots in this town. So long as that system was in its infancy, it may have been right and politic to encourage its development by fair words, by indulgent blindness to its early failures and shortcomings, and by cordial and even exaggerated commendation of its successes. But, Sir, local self-government has now outgrown the need for treatment which is only appropriate to the period of pupilage. The stage has passed when it could be rightly regarded as a youth of promise, and it must now be content to be judged as a man is judged—by its performance. An instructive parallel to the process through which self-government in Calcutta is now passing will be found in the history of the great Volunteer movement in England. When the Volunteer Army was first started shortly after the Crimean War, and for many years afterwards, it was treated as a desirable game or plaything, to be encouraged and belauded, but not to be regarded as a serious factor in the national defences. For many years the official utterances regarding the Volunteers were uniformly laudatory and even fulsome; their obvious defects were ignored, and flagrant breaches of military discipline were winked at which would have instantly led to severe consequences had they occurred in the regular army. All this has now changed. By steady perseverance, the Volunteers have at length raised themselves to a strength and to a pitch of efficiency which have caused them to be recognized as a valuable and integral component part of the defences of the empire. And now the attitude of the heads of the Army is far different from that of earlier years. They treat the Volunteers as men, and not as children. They do not scruple to point out their defects and shortcomings; they insist on a strict standard of discipline; and they do not hesitate to prune away any offending members whose imperfections impair the efficiency of the whole force. The reasons for this attitude are perfectly well understood in England, and public opinion thoroughly appreciates and approves the motives of the change. That, Sir, is something very like the stage to which the system of local self-government has now grown in Calcutta. And with what justice, reason or consistency can Government be charged with hostility because in the

23rd year of the life of the Calcutta Corporation it now seeks to measure its work by the standards of manhood, and not by the standards of youth?

"One word in conclusion. I trust I shall not be regarded as going beyond my province if I venture to bring to the notice of the Council the invaluable services which it has received in respect of this measure from our Secretary, Mr. Wigley. The labour devolving upon him in the various stages of the Bill has been enormous and incessant, and I think every Member of the Council, and especially those who were also Members of the Select Committee, will agree with me that his duties were uniformly discharged with the utmost ability, courtesy and patience.

"With these words, Sir, I beg to commend to the Council the motion that the Bill as amended be now passed."

The Hon'ble MR. APCAR said:—"My opinion is so strongly opposed to the Bill that is about to become law that I cannot allow this opportunity to pass without entering my final protest against it.

"I am entirely in favour of securing every sanitary precaution for the health and well-being of the city. At this stage, I would refrain from offering any remarks in respect of the incidence of taxation and the general details of the Bill. But I feel constrained to raise my voice against the methods that have been employed in pressing on this measure, and against the revolutionary changes that have been effected in the constitution of the Corporation. Without investigation or enquiry, and, in this, contrary to all precedent; on statements that cannot stand the test of examination and cannot be justified in fact; without a hearing being granted to those who have been placed under the shadow of grave and indiscriminating charges; with no regard for the past history of the question and with no consideration for the policy of previous administrations; without practical knowledge of the subject on the part of those responsible for the measure; in supersession of concurrent official declarations of the highest authority, this Bill has been introduced, has been passed through its various stages, and this Council are called upon to-day to finally affirm it.

"The work of forty years has been undone. Self-government that was intended, in all sincerity, to be real and genuine in its operation, is to be replaced by self-government in a form that is only a mask for official absolutism.

[*Mr. Apcar.*]

"Sir, laws depend as much on the pipes through which they pass, as on the fountain from which they flow, and here my objection comes with added force when the Government is subverting a policy which was foreshadowed 60 years ago, and for nigh upon 40 years has been upheld and given effect to, by successive rulers of this Province, supported by successive Viceroys, and always with the assent of the Home Government, under both Conservative and Liberal Administrations.

"The proceedings leading up to and in connection with this measure have been of so unusual a character—so blindly persistent—that I am led to express the wonder that I feel whether you, Sir, and the official Members who support you in this Council, are conscious that you have been engaged in sitting in judgment, not on the instruments of their policy, but on your predecessors in office; that you, with one voice—and when in this Council you do agree, your unanimity is truly wonderful—have been condemning, not those upon whom duties have been imposed, but these who have been responsible for, and have passed, the laws under which the city has been administered; that you are stigmatising the past rulers and administrators as having been improvident and without foresight; as having been unable to appreciate facts then existing and incapable of judging as to what was right to be done; in a word, as having failed in every particular on which the title of wise and statesman-like government rests? And to such a degree has your condemnation proceeded, so undeniably wrong and absolutely mistaken do you wish to proclaim your predecessors to have been, and so evident and palpable you desire to suggest is the remedy to be applied, that you have, without any semblance of an enquiry or investigation, determined what form the new constitution shall take. Again, I say, let the Council mark! The sweeping condemnation on past administrators, and on past Members of the Legislature, attaches, not to one Lieutenant-Governor, not to a single administration, but to the whole succession of them, one after the other. To what can this revolution in the views of the Government and in the votes given in this Legislature be attributed? We know that it sometimes happens that a wave of sympathy and sentiment overpowers the councils of Governments, and sweeps away, in its course, long-established laws. We have seen this occur where democratic influences have force, and public opinion is a determining power. But conditions such as these

have no existence here, and in this question there has been no cause such as I have indicated.

"At the inception of this measure there was apparent an unconcealed antipathy, which can be traced to an earlier period, towards those who have borne the drudgery of the work of this city, who, as has been truly said, have not usurped power, but who, finding others abandoning it, have laboured in the interest of the city, and in carrying out their duties have done their work, as my hon'ble friends, Mr. Oldham and the Member in charge of the Bill have described, in emphatic contradiction to all that had been said before, faithfully, honestly, and with singular ability. A very noticeable circumstance during the progress of this measure is the change in the attitude of those who have become responsible in the Council for this measure, in the later phases of the proceedings, towards a certain class of the citizens of Calcutta. I am not here as a champion of the Hindus. They need no champion outside their own community in the presence of the non-official Members of the Council who represent them. But as a Member of this Legislature, and now engaged in dealing with this Bill which is a subject of recognised public importance, I may be permitted to express my satisfaction with the change in this connection. With this there nevertheless has been no relaxation in the strenuous efforts to destroy every trace of the constitution that made self-government by the Corporation of Calcutta a reality, and gave them open control of the administration.

"So far has this policy of restriction been carried that the Chairman, in his executive functions, is without supervision or control. However much the public may desire it, they are left absolutely without power of obtaining any information of what he may be doing, or how his subordinates may be conducting themselves. The supervision and control that was found to be so necessary, and was a salutary check on the vagaries of the Executive, is completely withdrawn, and not even the opportunity of criticism is left. The Chairman of the Corporation, whom in the past we have known not merely as an advocate, but as the active protector of his executive subordinates, is in the future to be the sole arbiter of our fates, which are now to be confided to such persons as the Executive of the Corporation of Calcutta. Again, the public are to be left at the mercy of the General Committee in respect of such functions as have been allotted to that body. That body need give such information

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only as they may be pleased to vouchsafe, and they can withhold whatever they in their unfettered discretion may choose to withhold. It is perfectly true that the General Committee is formed out of the Commissioners of the Corporation, but it is no less a fact that that Committee has been formed into an independent authority, working with closed doors and under the presidency of the Head of the Executive, and in their body the representatives of the rate-payers, through whom the grievances of the public have hitherto found vent, under the new law, will be in a helpless and standing minority. What a contrast is this to the conditions under which the Corporation has worked for 36 years past!

"The Corporation through all these years have enjoyed full and effective control over the administration, and have earned the encomiums of the statesmen who have ruled under successive administrations. They have, by working in the light of day, taken the public into their confidence, and have submitted themselves to their judgment. When there has been a grievance to be redressed, a wrong to be complained of, any suggestion to be made in the interest of the public, any Commissioner has hitherto had the right of audience in the General Committee. In the new law, the Government have refused to concede the right to the Corporation of even a *précis* of the proceedings of the General Committee, so that we now have the prospect of the Municipal Executive, a body whom we have found ourselves unable to trust in the past, completely shut off from any supervision and criticism by the general body of Commissioners: the General Committee, a body of 12 persons who will be entrusted with large and independent powers—nearly all of which, however, they can delegate to the Chairman if they so wish, and attend their meetings simply to endorse the Chairman's proceedings and pocket their fees for the work—and yet will not be responsible to the general body of Commissioners. They will deal with large sums of money, and will be working with closed doors, yet need give only such information as they may choose to give to the general body of Commissioners, that is, to the public, and then at a meeting under the presidency of the Head of the Executive, who is also their own *ex officio* Chairman, and as such, and naturally so, a partisan in any question affecting their action, to control all discussions. In all these re-arrangements, the public may well enquire, where will the Corporation, that is, the general body of Commissioners, come in? What will be their functions, and what will be their

share in the scheme that is called self-government? Their functions were rightly gauged by those who originally framed the Bill, for they allowed them the privilege of meeting only four times in the year. The general body is to be the elective body, to elect 8 members of the General Committee, 4 being elected by half their number and 4 by the other half, and Government nominating the remaining 4 members. They may consider the annual budget, they may also consider the annual administration report. Each of these two functions occurs once annually. And all contracts involving an expenditure of more than Rs. 10,000 must receive their sanction. There will be some such contracts in the near future, but the necessity for them will not continue for any length of time, nor will there be many of such at any time, even if the necessity for them does continue for a long time. They cannot be regarded as likely to give permanent occupation to the general body. To discuss the annual report will require intimate knowledge of the subject, which must die out soon among the general body. To discuss the budget with intelligence will also require intimate knowledge, and it is a subject in which not many will be qualified to enter. If interest is kept up in these budget discussions by the general body, opportunity will recur periodically, but only once in the year. After the passing of the budget the general body will exist with suspended animation until the next annual meeting. Is this scheme seriously to be represented as self-government? If the Government desire to make of the Municipality a Government department, they can easily do so. If they wish to form a small Municipal Board, let that system be adopted. But why devise the elaborate machinery now adopted for such a very little effect? If the European community, for whose gratification this measure is ostensibly designed, continue as apathetic and indifferent in the future as they have been in the past, the law may continue in force for some time until the mischiefs of the system, in spite of all the provisions that exist in the law to cover them, are disclosed. And not the least among the mischiefs that I fear is financial bankruptcy. If, however, the Europeans begin to take interest in the municipal administration, they will soon wake up to the consciousness of a system carried on under cover of the name of self-government, which in effect is nothing of the sort. They will not consent to continue as nonentities in such a form of administration, and in these circumstances it is inevitable that there will be an outcry from them for a change at no distant date, when the fate of the law will be sealed.

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"Your Honour has referred to the advantage of the Head of the Executive being in the chair of this Legislature, with reference to the scheme under which, in the Corporation, the Head of the Executive is to be in the chair, both of the General Committee and of the Corporation. I venture to point out that there is a great difference between deliberative bodies where executive functions have to be discussed and where only laws have to be considered. I have myself, I may say, no desire to commit such a solecism as to question the rulings from the chair; but I may be permitted to remind Your Honour of the many amendments in this Legislature that have been disallowed by the Chair in our proceedings, although there are strict precedents in their support. 'The toad beneath the harrow knows, exactly where each tooth point goes, The butterfly upon the road preaches contentment to that toad.' No one will acknowledge more readily and with greater personal goodwill that the harrow that plies under the hand of the occupant of the Chair is covered with the softest velvet. Howmuchsoever the butterflies ranged on either hand in your support in Council may preach contentment, they are not under the harrow, and however softly tempered or softly covered the tooth points may be, they are there and must be felt. After all, Sir, this Legislature is only in an embryo state, and when more fully developed we may even see the precedent of other more advanced legislative assemblies followed, and find this Legislature removed from Executive control in the office of its President. I acknowledge that there may be necessity for Executive control to continue for the present in this country. I merely desire to submit that Your Honour's analogy does not hold good, and does not justify the control of the meetings of the Municipality, by the Head of their Executive as their Chairman.

"The Hon'ble Member in charge of the Bill has said that there has been the fullest discussion on every point; but there is one point, and a most important one, to which I would ask his attention, with regard to which I have heard no explanation. The Bill was designed with elaborate care in order to provide for the condition that the numerical majority of the Hindus would continue to exist in the Corporation. Sir Alexander Mackenzie, in very decided terms, publicly stated that the number of Commissioners as constituted under the present law would remain untouched, that is to say, that the Hindu majority would continue to be a factor in the question. Permit me to remind you,

Sir, and at the same time the Council, of your own words on the point—lest we forget!

"I feel that it is almost ungracious, when I recall the patient courtesy with which you, Sir, have listened to the proceedings of this Council and the consideration that we all have met with at your hand to criticise any word spoken by you. But I hope it will be recognised that this is a debate on an important question, and I have to make use of all the material that I find necessary and available. On my part I can say, no one will appreciate with keener interest and good humour any reply that is fair and to which I may have laid myself open. It is far from my desire, and indeed would be contrary to my wishes, to suggest an attack on you, Sir. But, Sir, I have to perform my duty here, and I hope that I may be permitted to perform my duty without in any way causing any kind of umbrage. Sir, these are your own words:—

'And, speaking for myself, I endorse with the heartiest pleasure and satisfaction the decision that the constitution of the Corporation shall remain as it is. I look upon it as of the greatest value to the administration of the City that there should be numerous wards and numerous delegates. The information and advice about local needs, which these delegates bring, will be of most important service. There could be no more excellent illustration than in the assistance they gave last hot weather in calming the fears of the people and establishing the temporary hospitals, which were the best means of reassuring them. I welcome, therefore, the arrangement which retains a large number of local Councillors, and the dangers of possible friction I personally regard as enormously outweighed by the certain advantages of their help.'

"Of the sincerity of these words I do not suppose there is an educated man in Bengal—or in the North-West—or in the Central Provinces—who would entertain the suspicion of a doubt. They might have certainly been accepted as Stygian oaths and inviolable promises. No expressions could have better conveyed a determination to maintain the number of Commissioners at 75, and that it was necessary and wise to maintain that number. To my bewilderment, being only a raw, newly joined recruit in this Legislature, which has been described by high and responsible authority as free to shape the measure before it in accordance with the views entertained within the Council, I have found these explicit declarations swept away like chaff before the wind, and this independent Legislature shaping this measure, which presumably has been committed to their judgment, not in accordance with the declarations of their policy by two successive rulers of this Province, but in accordance with the

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executive order of superior authority. But, Sir, if the Local Government find themselves unable to stand up to the recoil of their own gun, there is yet another consideration in which the Government of India express themselves as being in complete accord with them, but which has been lost sight of. Sir Alexander Mackenzie and Mr. Risley have directed their objections to the Hindu element in the Corporation and the effect of their predominance in that body. The Government of India, in their summary, under four heads, of the grounds for a change, follow the same line, except indeed they mention the failure of water-supply, which is news to me, and since the changes in the constitution will not improve it, I let that pass. All the rest is directed at the Hindu element in the Corporation. The objections of Mr. Turner and of the Hon'ble Member who still represents the Trades centred round the same point. All that the Hon'ble Member who now represents the Chamber said hinged on the same subject. When circumstances have altered, when the mischiefs that were said to exist have been removed, when the causes that have been stated to have given rise to the evils complained of can no more be found, when the reasons, the presence of which we were told led to the introduction of this Bill, cannot be quoted, what justification is there for the revolutionary changes [illegible] have been made? The whole aspect of the question has now been alter[illegible] been completely altered. The Bill was introduced under wholly different circumstances, and I have watched with keen interest to learn why—for what reasons—the Bill has been continued to be proceeded with on the lines on which it was originally framed. But the Government have not even attempted to give any reason or suggestion or any explanation whatsoever. If it was desired to define the powers of the executive, that could have been done without making the revolutionary changes that now have been effected in the constitution of the Corporation, but the new law has not improved matters, even in this connection. The public have been entitled to learn the reasons for such revolutionary changes, and I am curious yet to learn how these changes can be justified. I have looked for the sturdy independence, the self-reliance and the public spirit, that has placed the Trades Association in so high a place in public esteem, to assert itself in this Council; but I have looked for it in vain. I had hoped to find in the Chamber of Commerce the home for independent thought and independent action; but I have found their representative voting away, with the official Members, all the substance of what makes

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self-government a reality. If in their opinion, even under European influence, the Corporation cannot be trusted with any measure of real self-government, and they have wanted a constitution with an independent and irresponsible executive, with powers given to a small Municipal Board that can be rendered purely nominal, with payment for the nominal performance of public duties, and working with closed doors, they have got their desires in the Bill. But they have never yet said that this is their idea of municipal reform. And, if only those whom they represent will take an interest in municipal affairs, I may be allowed to express my opinion, for theirs are the communities among whom I live and move and have my being, it is not difficult to predict that it will be from them that the objections to the scheme embodied in the Bill will come, and it will come from them with added force.

"If the desire for reform had been the real motive for this Bill, the proceedings leading up to its introduction would have been vastly different. Instead of a Bill being secretly fashioned in the inner recesses of the Secretariat and sprung upon an astonished public, there would have been an open enquiry and investigation, the opinions of those with knowledge and experience would have been courted, and an endeavour would have been made to give us a system that would have aimed at removing the mischiefs that had been found in the enquiry to have existed, and to provide against them. If decentralisation was required, it could have been seen how that could be effected, and we would not have had the Hon'ble Mr. Buckley declaiming on every opportunity that decentralisation was the greatest need of the municipal administration, and by the irony of events, with mechanical precision, holding up his hand to vote for complete centralisation of power in the Chairman. 'It is to be regretted that Calcutta was too proud,' said Sir Alexander Mackenzie, 'to borrow its constitution from Bombay, which to my mind has an admirable system, combining all that is required of popular representation with a strong executive.' Sir, if that was the acme of Sir Alexander Mackenzie's desires, and if the enquiry had made out that the present constitution ought to be changed, we might have had the Bombay system in its entirety, as is indicated by the originator of the Bill before the Council. We then would not have seen the Hon'ble Member in charge of the Bill rendered so unhappy by having to make protestations of the deepest hostility to any powers at all being left to the Corporation, and victimised

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by being driven to use arguments that were consistent only in their inconsistencies, not once or twice only, but again and again throughout the discussions,—now scornfully rejecting the Bombay Act, now quoting it in seductive tones in his own support as against proposals based on results that have been found to have been beneficial and successful under the present Act, and, of all contentions in the world, h[illegible] to rely on the provisions of the present Act as to powers given under [illegible] to the Chairman to vindicate his amendments. Those with knowledge of our municipal administration have, from the first, regarded this Bill as being ill-considered and unworkable in practice. It has been before the Council for a long time, as we have so often heard. It never occurred to the framers of the Bill to insert the provisions of section 24A (*now* 16), which I shall presently more fully mention, and the Bill passed through two references to the Select Committee without any idea, apparently, that they would be wanted, and it brings into relief the criticisms on the Bill to which I have referred. That the section should have been found to be necessary only at the last stages of the Bill, and that the law would have been found unworkable without it in certain particulars, the proceedings themselves testify. But, Sir, the introduction of the section is not without interest to those who have been opposing the Bill, and for a very special reason. Sir Alexander Mackenzie and Mr. Risley loudly proclaimed that, under the present Act, the Chairman's powers were undefined and in a fluid state. I deny that there has been any difficulty in practice under the present Act: the duties have been sufficiently defined, and there has been no question in this respect. But Sir Alexander Mackenzie and Mr. Risley undertook to clearly define the respective functions and duties of the three so-called co-ordinate authorities, and their intention was expressed by the frame of the Bill as it existed until a few days ago. Now we have it that the General Committee, who have had certain specific duties assigned to them, to be performed by them at their own discretion and on their own responsibility, may delegate all that required 'their approval, sanction, consent or concurrence' to the Chairman. The powers that the General Committee can delegate are described, as will have been observed, in the widest terms. And now the new law that was to effect such a great reform in this particular, and in place of uncertain provisions as to the respective duties of the authorities, to present well defined duties in explicit terms—and we know that Sir Alexander Mackenzie and Mr. Risley took credit to themselves for having carried this intention to effect—we, af[illegible] all, find the provisions of the new law taking a

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form, at the last moment, more uncertain and undefined than the law that was so lightly condemned, and the Hon'ble Member who has been in charge of the Bill has now helped to complete the discomfiture of the attack on the Corporation, and has justified by his conduct, if not by his vote, the proceedings of his earlier official predecessors who were responsible for the law that is being repealed.

"Sir, if a constitution had been decided upon after sober enquiry and investigation, I might have differed from the views of the Government, but I would not have had the same ground for the strong objection I offer to the measure before us, and the proceedings relating to it. I shall now place before the Council, what they apparently do not know, the unbroken system of enquiry in years past that has been adopted in questions relating to municipal administration.

"The first proceedings to which I shall draw attention will be the report of a Committee made in the year 1840—I think that it will be found to be of great interest—that was appointed by Lord Auckland to enquire into local management and taxation in Calcutta. I would draw particular attention to the references made to the disposition of the mercantile community as distinguished from the trades, and in what a studied fashion they kept themselves aloof from municipal administration; and to the policy and anticipations of Government, even in those early days, with regard to the educated natives and the help to be expected from them:—

'Your Committee have received only two plans of municipal government—one from C. K. Robinson, Esq., Magistrate, and the other from the Trades Association, the Chamber of Commerce declining to enter upon the subject as being beyond their province. Your Committee may have every reason to believe that the members of the Trades Association would perform the duties which they have proposed laboriously and sealously, and that if the inhabitants of Calcutta were all, or even a majority of them, Europeans, such a plan, based on election by inhabitant householders, would be found well adapted for municipal government; but considering that the European inhabitants are an insignificant part of the whole population of Calcutta, and that by far the greater part of them can only be regarded as temporary residents, your Committee cannot take upon themselves to recommend what they consider wholly unsuited to the present state and condition of the great majority of the inhabitants.

'Your Committee are, however, of opinion that, considering the rapid progress now making in education, many years will not elapse before a class of natives will be found

in Calcutta able and willing to aid their European townsmen in performing those municipal duties usually entrusted to the inhabitants of cities in Europe; and your Committee therefore feel anxious that some preparation should, if possible, be made for so training the inhabitants of Calcutta that they may in time relieve the Government entirely from the attention which it is now compelled to give to these minute local details.'

"The administration of Calcutta by a small Municipal Board continued until the year 1863, when a change was introduced in consequence of complaints emanating from the Trades Association. Again we find enquiry and close investigation into the question. Evidence was taken, and the whole subject was sifted before any new system was adopted. I shall place before the Council the remarks of Mr. Eden, afterwards Sir Ashley Eden and Lieutenant-Governor of this Province, who was in charge of the measure that eventually was accepted. The first proposal had been for an administration by 36 persons, and the scheme did not include any participation on the part of the officials of Government as such. Mr. Eden in introducing his measure said that there were two schools of opinion—one of them supporting the view that 36 persons would be found ready to devote their time in the interest of their fellow-citizens, the other not agreeing with this view. I shall give in Mr. Eden's own words the views of the latter school, and again I would draw attention to the opinion entertained in his day with regard to the chances of Europeans taking part in the administration of Calcutta and the qualifications of the natives for doing so. This is what he said in Council on the 17th of January, 1863:—

'There are those who hold an entirely opposite opinion, who say that it would not only be impossible to get thirty-six volunteers to carry on the work of the Municipality, but that not even six men would be found ready to sacrifice any reasonable portion of their time for the good of the public. They say that the European residents who understand and appreciate representative administration are too busy to take any part in local administration in this country, and that the native residents neither understand nor appreciate anything of the sort.'

"The next change in the administration was effected in 1876. Again, we find the Government of the day approaching the subject with an open mind and in a liberal spirit. Counsel were heard on the question of the elective system before a Committee of the whole House, and after an open discussion the elective system was granted, the Lieutenant-Governor of the day, Sir Richard Temple, giving the widest latitude to his official Members in all the questions that were raised. It was on this occasion that the Government deliberately

rejected the proposal of a Municipal Board working with closed doors, on the ground that the most complete publicity was beneficial in the interests of the public. We have the strongest testimony from more than one quarter that the success of the new system equalled anticipations. I have already quoted a letter in a previous stage of the proceedings under the signature of Sir Alexander Mackenzie, dated 10th January, 1884, when he was Secretary in the Home Department of the Government of India, conveying the approval of that Government of the work done by the Corporation. He said that they had done 'much excellent work' in the year. And it was significant and important that this should have been communicated at that time by the Supreme Government, because it was about the time when the Beverley Commission, of which we have heard so much, was appointed. And those who have been quoting that Commission against the Corporation have lost sight of the fact that the agitation that led up to its appointment gained strength by reason, not so much of the faults of the Commissioners, but what was discovered to be the *laches* of the executive, who had neglected to flush the sewers, and thereby had been the cause of the very foul odours in the European quarter that had caused the strong outcry among the European residents of Calcutta. I have already in a previous stage of our proceedings quoted Sir Henry Cunningham, who led the agitation in those days, that the announcement of the existing conditions with relation to the Beverley Commission was 'a most satisfactory' one and how he 'had never heard of any one so ignorant and so foolish as to under-value what has already been done,' and that the Corporation under its popular form of government had 'revolutionised the sanitary condition of many parts of the town.' Again, when we have the next change, which occurred in 1888, we find it preceded by a careful enquiry instituted by the Government of the day. It was at this time that the amalgamation of the suburbs was effected, and it was preceded by careful investigation by a Commission appointed for the purpose. In the proceedings in Council relating to that Bill the whole subject of representation was most thoroughly discussed. As the Member in charge described it, the measure that the Government adopted was a 'compromise between two extreme views' on the question, and the extreme view against the measure put forward on behalf of the European community never contemplated changes as revolutionary as those now adopted by the Government. And let me quote contemporary opinion on the work and

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efficiency of the Corporation, that was expressed by an official supporter of the Government on the motion that that Bill be passed into law. 'Speaking as an occupier,' said Sir Alfred Croft, 'I should say that the Municipality is well governed, it is well watered, well lighted, well drained, well watched,—in fact, in all points by which one can judge of the success and value of a Municipality, the Municipality of Calcutta comes out well.' What more favourable opinion can ordinarily be expected of any Municipality? And let me give again the words of Sir Henry Harrison:—

'Was it not still more gratifying to reflect that this experimental system had in sober truth developed in many of the most experienced Commissioners that moderation in judgment, that sense of responsibility in action and discussion, that toleration of opposition, that practical sagacity which is at once the test of the experienced administrator and the best guarantee for the confidence bestowed in him? Was it not a legitimate triumph that, now that the necessity of making more sustained efforts for the improvement of the suburbs of Calcutta was at last fully realised, no better course suggested itself than to make them over to the same body who had retained the town of Calcutta?'

"I am led to ask the Council to compare this glowing eulogy on the Hindu Commissioners with the report of the Committee that I first quoted, when the policy of leading the natives of this country to take part in municipal administration was first foreshadowed; and later, with the words of Mr. Ashley Eden, when in 1863 he expressed a view that they were not yet fit to take part in the administration. Sir, it is no exaggerated language that Sir Henry Harrison uses when, after describing the high qualities that have been developed in the natives of this country by the wise and statesmanlike policy of succeeding generations of governors, he speaks of the achievement as 'a legitimate triumph,' and particularly when the splendid product of British sympathy and British genius could be put to practical use when the Government had failed in their administration of the vast area of country comprising the suburbs, and help was required to administer it with better results; no better means, says Sir Henry Harrison, could be devised for this purpose than for Government to hand it over to those who had, as Sir Henry Harrison truly says, 'reclaimed Calcutta.' Are we to regard these persons so spoken of by a responsible official as being still *in statu pupillari*, as has been described here to-day? Are they to be regarded as persons who have not yet learnt responsibility in administration? Or are we to regard them as having attained their majority and as having proved themselves equal to the task left for them

to do? I think, Sir, it is the latter view we must take, but, where now is the triumph to which Sir Henry Harrison exultingly referred? Where now is the principle to which Sir Henry Harrison referred with legitimate pride? All those qualities that had been fostered by Government with so much care and thought are now wasted. The services of those to whom Sir Henry Harrison referred are now lost to their city and as if they never had been, except, indeed, the splendid monument of their efficient administration that they have left as a standing testimony against their detractors.

"Sir, I am entitled to quote the Act of 1888 as a stamp of approval by the Government of the constitution of the Corporation of Calcutta and of their previous municipal administration. Have the Corporation been found wanting in their duties, so as to forfeit the good opinion of which the Act of 1888 was the outcome? What has happened that there should be any of these drastic measures adopted for the purpose of setting aside the people who have been able to appreciate their duties and to perform them well? Sir, that can easily be told. We know what the condition of the suburbs was, and we know what has been done since they were taken over by the Corporation. I can show that they have not betrayed the confidence that was reposed in them, and that they have administered the affairs entrusted to them with pronounced success. Let me compare the condition of the suburbs when Government handed over charge, with its condition now. I shall quote from a report by Sir Henry Harrison which has been most opportunely published at this juncture, and for which the Corporation are indebted to their present Chairman, describing the state of the suburbs under its administration by the Government and at the time when they were handed over to the Commissioners of Calcutta, with what has been done for that area by that much-abused body. Sir Henry Harrison in his description says that hardly a rupee of capital had been expended upon it, and expenditure was quite as urgently requisite for the suburbs as it was in the case of the town 20 years before. He enumerates the wants of the suburbs thus:—

'*1st.*—The water-supply of the town should be extended so as to give reasonable facilities for obtaining pure water for domestic purposes to all residents in the suburbs.

2nd.—Some system of underground drainage should be introduced.

3rd.—The new area is intersected with tanks, many of them filled with most unwholesome water, the number of which far exceeds that in the town ten years ago. Considerable outlay for the conveyance of earth from a distance will be requisite.

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4th.—The condition of the Muhammadan burial-grounds is such that it is imperatively necessary to take up land at an estimated cost of 1½ lakhs, in order to enlarge them, and allow a suitable interval between the use of the same ground for a second interment. It is found that at present the same land has to be used over and over again, after three years in the less crowded, two in some of the others and scarcely more than one year in the most crowded cemeteries. Will the Government give the money, or will it refer the Burial Board to the Municipality?

5th.—The conservancy of suburbs is at present managed by the contract system, and it is understood that it does not give satisfaction. It will be at least desirable to incur a considerable outlay in building *gowkhanas* and purchasing conservancy carts and cattle; possibly also a railway extension may be necessary so as to remove the bulk of the refuse more easily to a distance.

6th.—A proper *dhobikhana*, as at Bombay, where *dhobis* will be provided with pure water and other cleanly surroundings will also be a great desideratum.

It would be easy to add to the list, but the above outline is sufficient to show that a considerable outlay in the form of capital, is a *sine quâ non* to the success of the new Corporation.'

"It is interesting and instructive to note how far these needs have been supplied. I quote a *résumé* from the current Administration Report in which the Chairman of the Corporation has summarised what has been done:—

'No less than 132·03 miles of mains and services have been constructed at a cost (including alterations to mains and piping) of Rs. 10,30,562. This, together with the sum of Rs. 7,80,297 in a new pumping station and accessories, makes a total expenditure of Rs. 18,10,859, and to this should be added part of the expenditure incurred in increasing the pumping power of the town. As a result of this large expenditure the added and suburban area is now supplied throughout with an excellent supply of filtered water. The first need of the added area has therefore been met.

'The second crying need of this area was declared to be the provision of a scheme of underground drainage. This question and that of improving the drainage outfall of the town area was gone into most carefully by the Corporation. It will probably take nearly three years more to complete the whole scheme in all its details, but the work has made good progress, and it is hoped that the scheme when finally carried out will be entirely successful. Due action has, therefore, been taken to provide for the needs of the suburban area in this respect.

'The third point, upon which improvement was said to be required, was to fill up the filthy tanks which are so numerous in the suburbs. It has been found impossible to deal adequately with this very large question, but the provision of filtered water has done away with [illegible] using the water of these filthy tanks for drinking. A number of tanks [illegible] been filled up, but the total number is so large that very little impression has [illegible] made upon it.

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'The next point upon which improvement was required was stated to be the provision of proper Muhammadan burial-grounds. Here, again, this need has been to a certain extent met, as the Corporation two years ago provided a fine cemetery at Gobra, which has been filled up much faster than was expected, and the arrangement of which has now been sanctioned. The total cost amounts to Rs. 35,584.

'The next point upon which improvement was declared to be necessary was in the conservancy of the suburbs, which was managed by the contract system. Here, again, much has been done to improve matters. But it is in the matter of the disposal of night-soil that great improvements have been effected, and the trenching system has been entirely abandoned owing to the construction of temporary sewage depôts at Hazra Road and Budge-Budge, where the night-soil is emptied into the sewers and then pumped into the large Circular Road sewer at Bhawanipur. This scheme necessitated an expenditure of Rs. 3,93,325.

'The last improvement suggested by Sir Henry Harrison was the establishment of a *dhobikhana*. Here, again, the need has been met. A municipal *dhobikhana* was erected at a cost of Rs. 50,967, including the cost of acquisition of land.

'Since the added area has been included, the Corporation has either fully or partially met all the needs of the added area, which were declared to be most pressing. They have given a full supply of filtered water, they are constructing a complete system of sewers, they have established an incinerator to dispose of the refuse, and have changed the system of the disposal of night-soil, while they have instituted a municipal *dhobikhana*.

'But they have done much more than this, for they have extended the unfiltered water-supply to the south added area, and have opened out a number of very fine roads. On the former they have expended Rs. 7,98,547 (including 41·75 miles of mains, branches and hydrants). On the latter they have expended Rs. 8,80,140.'

"But it would be wearisome to go into further details. It will suffice to say that we are now paying the sum of three lakhs of rupees as interest on the capital sum that is being employed in the suburbs in improvements. I again would remind the Council that under the administration by the Government, as Sir Henry Harrison described it, hardly a rupee of capital had been expended in it, and that it was in as backward a condition when the Calcutta Corporation took it over, as the town of Calcutta was 20 years before. The Corporation, it will be seen, cannot be justly charged with having neglected their opportunities, but, on the contrary, they deserve the highest commendation for the excellent work that they have done since the amalgamation.

"Sir, with all this, why is there this change? What necessity is there for it? At whose suggestion has this change been brought about? Certainly not at the suggestion of Sir Henry Harrison, because it is clear he could not have

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said that the Corporation was unworkable. In describing the method of working in the Municipality, in the course of the proceedings of this Legislature in connection with the Act of 1888, which it is the purpose of this Bill to replace, he said:—

'He believed the system of work which had gradually developed itself in the Municipality was eminently advantageous and reasonable.'

"At a later stage of the proceedings to which I have referred, when combating a proposal to alter the constitution of the Municipality as it at present is formed, he said:—

'We have existing lines to work upon, and unless we are prepared to say that the Corporation will not work on these lines, it is undesirable to change them. I am not prepared to say that the proposed constitution is unworkable.'

"He was succeeded by Mr. Lee. Well, Sir Alexander Mackenzie has told us that every Chairman, at one time or another, except Mr. Lee, has said that the constitution was unworkable. The Hon'ble Mr. Oldham spoke of Sir Henry Harrison, Mr. Lee and Mr. Bright as 'the champions of the Commissioners.' In the first place, Mr. Lee never spoke to Sir Alexander Mackenzie, and in the second place he has put his opinion on record, and that opinion is contrary to the idea of the constitution being unworkable. I know that Mr. Bright did not make any suggestion of this sort, and I am glad of the opportunity of being able to say so in his presence to-day. Mr. Williams, with regard to whom Sir Alexander Mackenzie denied with emphasis that he had complained of the Corporation, it could not have been. Mr. Ritchie was the only Chairman left of all those who have held office since 1888; it could not have been him, because many of these matters which are brought forward as charges against the Corporation are matters which occurred during his Chairmanship, and in connection with which he has in the most frank and manly way taken the whole blame, if any there be, on himself, and has entirely exculpated the Corporation and the Commissioners. Then, who of all the Chairmen—and none but the Chairman can be said to speak with any authority—have complained of the system being unworkable? We are driven to this conclusion that Sir Alexander Mackenzie must have been the dupe of his own theories and general ideas which falsified his judgment. I cannot find one of the Chairmen since 1888 who could possibly have made any such suggestion as that which underlies the provisions

contained in this Bill. Sir, we know further that Sir Steuart Bayley thought nothing of the kind. That Sir Rivers Thompson did not think it was necessary to change the constitution is clear, because I have already placed before the Council how he resented the proposal made by Sir Henry Cuningham, who himself withdrew it. Then, Sir, what is the reason for all this? I come now to what the Hon'ble Mr. Oldham said at our first meeting. What he said, as far as I could understand him, was that the only exception he took was to the Hindu predominance. Then he spoke in the warmest terms of eulogy of the Hindu Commissioners. He said:—

'For more than a year I have been a Commissioner myself, and have worked with them and therefore have been able to understand more clearly than before now, from time to time, such as men as Sir Henry Harrison, and Mr. Cotton and Mr. Lee, and now the present Chairman, Mr. Bright, have stood forth as the champions of the Commissioners. I believe them to be an upright and devoted body of men who have carried out with singular ability the duties entrusted to them; but I deny that they are representatives.'

"The Hon'ble Member was not satisfied with what he had said. Later in his speech he returned to the point. He said:—

'The sole difficulty I have found, so far as my own attitude in the case is concerned, is that we are now endeavouring to take away, after 21 years, a power of which they have been faithful trustees and which they have exercised so well.'

"Now, Sir, under the present Bill the predominance of the Hindu is gone, and I looked for the support of the Hon'ble Mr. Oldham in our endeavours in some degree to alter the constitution of the Corporation as it is designed in the Bill, seeing the position he took up when the Hindu predominance existed. Certainly from the words he used I expected his support. But I looked in his direction in vain. Inexorably, his hand went up always in support of the lead given by the Hon'ble Member in charge of the Bill. What the reason is why he persists in supporting this change in the constitution I am wholly unable to understand. All that he complained of was the Hindu predominance. Under the new scheme that predominance cannot exist. He, nevertheless, supports every change that has been suggested in this Bill. But, let us examine, what were the reasons he gave for his view that the Hindu predominance is a determining factor as against my contention that as a matter of fact the Hindus in the Corporation have not used their numbers to swamp their colleagues? He said that so far as the General Committee is composed

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of elected Commissioners there is not a single Muhammadan, and that so far as it is composed of nominated Commissioners there is only one Muhammadan. The latter gentleman is my hon'ble friend, Prince Mahomed Bakhtyar Shah. But the Prince being a nominated Commissioner his election to the General Committee has been made by the nominated Commissioners, among whom there are only three Hindus, so that it is clear there is no Hindu predominance among the nominated Commissioners and other Muhammadan Commissioners have not been kept out of the General Committee by reason of Hindu predominance. Then, as I have said, the Hon'ble Mr. Oldham referred to the General Committee not having upon it a single elected Muhammadan Commissioner. It is perfectly true there is not a single elected Muhammadan Commissioner; but, if the Hon'ble Mr. Oldham had been in the Corporation previously, he would have known that last year there was one, and that the year before there were two, and in previous years Muhammadans have been elected; the form of election is of such a confusing character that it is impossible to distinguish in the long list from which selection has to be made, so that the Muhammadan and the Hindu members can *qua* Muhammadan and Hindu be fully represented. Whom would my hon'ble friend exclude in order that his place might be taken by a Muhammadan? The absence of a Muhammadan from the General Committee is quite an accidental circumstance, and it cannot in any way be used to say that the elections are not fairly conducted. The appointments of these Committees depend on the merits of individuals. We have in the Committee possibly six or seven who are elected year after year, and I venture to say that the Hon'ble Member approves of these elections. We have others constantly shifting, and it happened that at the last election time there perhaps was no Muhammadan Commissioner who had been found so attentive and regular as to obtain election for himself. But that one little matter does not show that it is due to any Hindu predominance. Then my hon'ble friend referred to his own ward, No. 15, where he resides, and said that there have been two Muhammadans elected to controvert my contention that under the new scheme Muhammadans will have but a small chance of being elected. Now does my hon'ble friend know the circumstances as I know them? Why, the Muhammahan gentleman whose name my hon'ble friend brought forward so prominently sent in his name at the last moment, when he found that only one candidate had been nominated, when the ward

enjoyed the privilege of returning two Commissioners. It was expected that a European would offer himself, and no one stood in consequence. But the European came in too late to be qualified as a candidate, so that in regard to Ward 15 the Hon'ble Member's contention with regard to Muhammadans is not conclusive nor is carried for. I will give another instance, in regard to Ward No. 16, that indicates insufficient interest and consequent want of attention on the part of Europeans in municipal affairs. No one had sent in his name to the very last as the second candidate, when a Hindu gentleman, finding the vacancy going a-begging, sent in his name. A European then sent in his name, but it was too late, and his nomination was not admitted by the permanent Chairman. The officiating Chairman came in and overruled the permanent Chairman, and permitted the European to come into the contest, and he was thereupon elected to one of the seats for Ward No. 16. In these two matters it is not the Hindu predominance at all that is in question, but the negligences of the Europeans in sending in their names.

"Then, Sir, I come to the statement of my hon'ble friend, which I am sorry he has made. He referred to Sir Stuart Hogg's argument about 'birds of passage' as follows:—

'When I think of him as using this astounding argument, I can only look on him as giving up, with both hands, in the very plenitude and wantonness of power, everything that might be urged on his side.'

"Well, Sir, does my hon'ble friend quite realize the meaning of these words? Sir Stuart Hogg was then retiring from the Chairmanship of the Corporation, so that if he had this 'plenitude and wantonness of power,' it was not as if he was going to revel in it; and are we to take it that he had no consideration for his own community and for the member of his own service who was going to succeed him, and that he merely made use of this argument as a practical joke? I ask the Hon'ble Member to reflect what the position held by Sir Stuart Hogg was. He was a responsible officer of Government performing responsible functions in this Council. He was in charge of the Municipal Bill of that day, and to speak of an argument he seriously put forward in the terms employed by the Hon'ble Member caused me to feel regret. Why, Sir, it would leave open to any one, coming after the Hon'ble Mr. Oldham, to criticise what he has said about the Hindus being such trustworthy Commissioners as being said in the plenitude and wantonness of power,

or if that expression be not applicable to the Hon'ble Member's position, then as being a statement that was not genuine or sincere. I confess that I should view with regret a condition when our proceedings are placed on a level that criticisms of this character would indicate. I am not a member of the service to which Sir Stuart Hogg belonged; nevertheless I cannot allow the criticism on him to pass unchallenged. I do not allow that Sir Stuart Hogg was otherwise than genuine and sincere in his argument. Apparently those who represent the Government feel hit by his argument very strongly, and they are consequently trying to belittle it as much as possible. Then, Sir, my hon'ble friend, Mr. Baker, compared the Corporation to a railway, and said that a railway is not to be gauged by its value to the shareholders. Of course, Sir, a railway is a great benefit to the country through which it passes, but on that account its administration is not taken away from the shareholders. Then, Sir, we have heard the Hon'ble Member in charge of the Bill speak of the Educational Department and say that you cannot value the Educational Department by the salaries paid to the teachers. I am unable to catch the Hon'ble Member's meaning in his illustration. For analogy, are we to look to the Executive of the Corporation who receive salaries? Surely the Hon'ble Member does not mean that we are to value the Corporation by the salaries paid to their Executive, and the benefit derived by the Executive is the measure by which we value the Corporation. Now, the first benefit of the Educational Department is to those who are taught, and if you were to place them in charge of the Educational Department there would be a fine hurlyburly. Then, Sir, we come to what the Hon'ble Member for the Chamber of Commerce said. He said he had been a member of the Corporation since March, and that he only consented to be nominated on the understanding that he would not be required to attend meetings of the Corporation until the new Bill came into force. Then, Sir, what was the use of joining at all? He did not do us the honour to attend until the last occasion when we held a meeting.

"Is this the standard by which we are to judge of the interest that the mercantile community take in the municipal adminstration? Does not this abstention give point to the Hon'ble Mr. Oldham's remark on the occasion of the reference back to the Select Committee last month, when in speaking of the Hindu Commissioners, he said:—

'I cannot say that they have usurped power. They have attained it by fair means and heir own abilities, and because it was left to them.'

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"Is not this a sufficient answer to the charge, baseless as I always shall insist, that the Hindu Commissioners have swamped the proposals of the Europeans by their solid and class voting? The Europeans do not take their proper share in the municipal administration. I say it with regret, but it cannot be seriously denied, that what may be called local patriotism is not a marked feature among the Europeans of Calcutta. It is because they have abandoned the field, deliberately, for their own convenience and in order to give their time and attention to more lucrative employment, that others, and conspicuously among them the Hindu Commissioners, filled the vacancy. These have undertaken public duties and have carried on these duties in the words of the Hon'ble Mr. Oldham 'with singular ability' and as 'faithful trustees.' And when the Hon'ble Mr. Oldham continues in the speech from which I have quoted, and says,

'But it has become a monopoly and is complained of,'

I answer that the preceding sentences are an answer to him. It should not be a subject of complaint that they should have performed functions that would have been left unperformed but for their public spirit. And there is the less reason for him to suggest a complaint or to array himself against them when he himself admits that they have conducted themselves faithfully and with ability.

"We have been told by the Member who preceded the Hon'ble Mr. Mackenzie in the representation of the Chamber how their reforms were swamped and obstructed by the Hindu Commissioners. Well, Sir, I have been a member of the Corporation for many years, I have taxed my memory and I have been trying to obtain information as to the part that has been played by those who have represented the Chamber. I do not recollect, and I have been unable to learn of, an occasion on which the representatives of the Chamber have been swamped by the Hindu majority. The occasions when they have intervened actively have been few and far between. The Council can judge of the character of the interest they have shown by the subjects in which they have interested themselves. One of their representatives was interested in the rules to be made by the Municipality with regard to game birds, another in the tramways question and supported a policy which was considered to be inimicable to the Municipality by the Hon'ble Member in charge of the Bill, another in the gratuity to be paid to the widow of a

deceased European officer of the Corporation, and the fourth Commissioner, as I have already mentioned, was the Hon'ble Member himself when he took part in the discussion referred to the other day. That discussion disclosed at all events, since there were so many standing orders broken, that he came to make up for lost time. It would be well, Sir, if the members of the commercial community were provoked to good works by those with whom they cannot agree. It is simply a waste of power for any one to join and refuse to take part in the meetings. I say that not only have their reforms never been swamped by the Hindu majority, but I also assert that they have never given that majority an opportunity of swamping them. They cannot judge of what they could or could not do by abstaining from attending altogether, and, Sir, I am bound to say that although there has been the most complete acceptance of the disclaimer on his own part by the Hon'ble Mr. Mackenzie of any knowledge in regard to the incident in connection with himself that was mentioned the other day, I cannot help thinking how few would escape blame if the measure with which we measure were meted to us again. The Hon'ble Mr. Mackenzie has had an opportunity in this Council of giving an explanation with regard to himself which, as I have said, has been accepted. The Hon'ble Member has had the advantage of having had an opportunity of giving an explanation, and he has availed himself of it. Here we have Hindu Members who have been blamed by the Hon'ble Member's brother, Sir Alexander Mackenzie, and others for all sorts of things, even for corruption, and they have never had the opportunity of explaining them away. Can the Government say if the Hindu Commissioners had enjoyed the same advantage and an opportunity had been given them that they also would not have been able to explain away the charges alleged against them in a manner equally satisfactory?

"Endeavour has been made to controvert my contention that the idea of Hindu predominance is a myth. I certainly have not been shaken in that contention; on the contrary, I feel the stronger in my contention after having heard all that can be said against it. Hindus have of course been in a numerical majority. But that they have used their numbers for the purpose of outvoting their colleagues is an idea that cannot be substantiated.

"If we set aside the idea that the constitution of the Municipality was unworkable as mistaken, and the idea that the Hindus swamped the reformers by

their class votes as illusory, for what are we to say that the Bill was necessary? What have we remaining except the charges made on the introduction of the Bill and when it was referred to the Select Committee on the first occasion? Those charges have been shown to be fallacious, and if only an enquiry, which has been so persistently asked for, and which in fairness ought to have been granted, had been held, they would have been disproved in the most complete manner and would have to be set aside beyond all doubt and controversy. I do not wish to go back into all the old matters which have already been dealt with, but there are some further matters which appear in the reply of Mr. Risley when the Bill was referred on the first occasion to the Select Committee. He said that the Corporation did not realize their duties with reference to the building bye-laws. Well, Sir, if bye-laws have been contravened, it is entirely the fault of the presiding authority in allowing anything of the kind to be done. I have made enquiries, and I have found this, that those very instances which Mr. Risley gave would have been permitted under the provisions embodied in the new law. Then, Sir, he has given other instances of failure on the part of the Commissioners, amongst others, with regard to the *dhobi-khana.* I have shown already that it is not the fault of the Commissioners that that undertaking has not been carried through. Then he referred to the Loans Department. I have shown already how the present Chairman entirely agreed with the Commissioners and set aside the orders of his predecessors. Then Mr. Risley referred to the Warrant Department. There, again, I have shown that the Chairman is entirely in accord with the Commissioners in the action they have taken. He referred to the *bustee* improvement question; but he did not take into account, as I have shown, the money spent for *bustee* cleaning as well as for improvement. He only took into account the sums spent for structural improvement, and even then he did not take into account the sum of 8 lakhs which have been spent in the opening up of Harrison Road, a continuous *bustee* of more than a mile and a half in length. It will be remembered that I read out to the Council the letter setting out this fully, which was dated 13th April, 1895, and addressed by Mr. Ritchie when he was our Chairman to the Local Government. Mr. Risley was, I believe, Secretary in the Municipal Department at the time, and the letter must be filed in his own office. But he did not avail himself of the information that was ready to his hand when he made his attack on the Commissioners.

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Then Mr. Risley referred to the question of the plague. He said that the Commissioners were incapable of meeting the emergency. I am not going through all the details of that subject, but I emphatically deny that whatever was done by the Commissioners with regard to this matter was done under pressure by the Local Government, as was suggested. The sum of Rs. 30,000 has been spent by the Commissioners out of their own free will and on the initiative of the Corporation, as can be most decisively shown, and not from any outside pressure, such as Mr. Risley endeavours to show; and in this connection there is a point which I think ought not to escape the attention of this Council, and it is this. Mr. Risley said how at the last moment it was due to the strong pressure employed by Sir John Lambert at the meeting of the 9th October that the Commissioners consented to employ a Chief Superintendent of Conservancy. Well, Sir, as a matter of fact, Sir John Lambert attended the meeting of the Corporation on the previous day and spoke against a permanent officer, which was the point of controversy; he suggested a temporary officer, which was a very different proposal; and it was at once accepted by the meeting as worthy of consideration and referred to the General Committee, which is the Finance Committee, to consider the details of the question. The Committee met on the following day, when he attended, and from the proceedings of that meeting I hold in my hand I am able to say he did not speak a single word in favour of the suggestion he made in the general meeting. The motion was nevertheless carried unanimously, and the proposal, based on Sir John Lambert's suggestion, was carried into effect without delay, so that the idea that the appointment was in any way due to the pressure brought to bear by Sir John Lambert or that the Corporation were in any degree reluctant and required pressure to agree to it is not borne out by the facts we know. There is a resolution under the signature of Mr. Risley, dated the 10th of October, 1896, in which this appears:—

'The Lieutenant-Governor expressed his entire approval of the steps taken under the Commissioners' orders to give special attention to the cleansing and sanitation of Calcutta.'

So that that entirely disposes of any charge under that heading. I have now been through all of these charges preferred by Mr. Risley except that referring to the Goragatcha trenching ground. We have been blamed very much because of the nuisance which existed there. But Mr. Risley has omitted to

mention that when the suburbs came under the administration of the Calcutta Municipality, this trenching ground was the subject of contention in the Law Courts, because of its being a nuisance, and proceedings were stayed against the Suburban Municipality only because there was going to be the amalgamation to which I have referred. After the amalgamation every endeavour was made by the Commissioners to stop this nuisance. I personally with other Commissioners again and again pressed upon the Executive to abate it as an urgent question, and whenever asked the Commissioners voted funds. But nothing could be done, because the Health Officer and the Engineer could not come to any agreement as to what was required. Eventually this is what the Chairman wrote on the subject in a letter, dated 15th August, 1895, and addressed to the Local Government. I will read extracts of it to show how little the Commissioners were to blame in this matter. After giving a history of the subject, in the course of which he quotes the Health Officer's note, and dated 11th May preceding:—

'The first thing that happened after the suburbs were amalgamated with the town was the prosecution of the Municipality for creating a nuisance at Goragatcha. Such a prosecution had been long threatened against the Suburban Municipality, but had been stayed off by the promise that when the amalgamation took place, the nuisance would be removed.'

"It is the duty of the Executive to place proposals before the Commissioners, but no scheme was submitted to them. The Chairman later says:—

'I did not lay the complete estimate for raising and levelling the land before the Committee in October, because the estimates with which I was furnished seemed to be unnecessarily high, and also because we were threatened with a suit of which the object was to prevent us trenching at Goragatcha at all which was not disposed of till 31st May, 1895. * * * When it became apparent that the temporary scheme [designed by Mr. Hughes] was not approved by Mr. Latham [Sanitary Expert of London who was consulted], I recommended to the Commissioners the acquisition of 50 bighas of land at Jinjrapul. This was sanctioned on 29th May, though the site was subsequently altered to Batchala. At the same meeting, Rs. 27,745 was sanctioned for raising the site of the new land at Batchala. * * * I must admit that the result has been unsatisfactory; but in doing so I desire to absolve the Commissioners from blame * * *

'9. It is the custom of Government to review minutely every year the annual report submitted by the Corporation, which gives the fullest account of the progress of their works, of their schemes, and of their administration, generally. The work of the Commissioners has of late years secured the express approval of Government, and the Commissioners have

had no hint on a full review of facts and figures, ways and means, that Government think that they have been wanting in a sense of their duties and responsibilities as guardians of the public health.'

"Mr. Risley was, I believe, Secretary when this letter was sent to the Local Government, and it must be filed and was available in his own office when he made his attack on the Commissioners. I refrain from comment on the aspect that presents itself, but I crave leave to ask, is the cause just that is advocated by the methods I have disclosed?

"Sir, in this connection there is a matter which is of great interest and to which I particularly desire to call the attention of my hon'ble friend Mr. Buckley. The Hon'ble Member rose up and loftily exclaimed: 'What! do you mean to say that the Local Government here are not as fit as the Local Government Board in England to control the Municipality?' My hon'ble friend does not bear in mind how much the conditions differ in favour of the Local Government Board in England. In England there is the command of a large supply of expert opinion. There, officiating appointments are practically unknown, and office-holders continue in their duties from year's end to year's end, with only an occasional holiday when they generally are within call of their head-quarters. In India, officiating appointments cannot be said to be the exception. It seems to me as if every officer is acting for some one else who has either gone to Europe on leave or has been lent to another Administration. And the Government appear to constitute themselves a sort of educating agency. How often do we see appointments made when the person appointed has to learn the business of his new appointment. City engineers and sanitary experts are not born, but must have long training and wide practical experience before they can become authorities. The Local Government have very able officers in their service, but how many have the necessary knowledge by training and by experience to constitute them reliable authorities in the Departments I have referred to? Well, Sir, our experience is that we have had many matters which have been urged by the Government of Bengal, which have not been practicable in which they have shown that they have not the knowledge to make them safe-guides."

"I wish to mention in connection with this Goragatcha scheme that the then Lieutenant-Governor, Sir Charles Elliott, went down to the spot and himself ordered that there should be five feet of trenching for one foot of soil, and

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stated that he had done so in reply to a petition of the residents of Alipore. This was in May 1895. Then there was a complaint made by the Chamber of Commerce in July—I may mention, incidentally, that the President of the Chamber was a resident of Alipore—and then the Government wrote to them to say that they had given directions among other things that 'in no trenching ground should the depth of the trenches exceed three feet, nor should the bulk of sewage deposited exceed one-half of the amount of earth filled in'—a remarkable departure within three months, is it not? The letter of the 15th August from Mr. Ritchie was the reply to the letter giving those directions. But let me show the value of the Government directions, and on the information and knowledge on which they act from extracts of a letter I hold addressed to the Chairman in the handwriting of the Health Officer of the Corporation, Dr. Simpson, who has so often been referred to by Government as an eminent expert in sanitary science. I have obtained the document from the Municipal Secretary. This letter was 'in reply to the letter of the Bengal Government, dated 23rd September.' He writes:—

'That the District Magistrate's report as to all attempts to trench the ground on proper principles have been abandoned and the night-soil is simply poured into deep trenches, which are insufficiently covered with earth' is extraordinarily in accurate. * * * The only remark I have to make is that it is a pity a responsible official should not have been more careful in his statements on a subject on which the public mind is peculiarly sensitive and where the Corporation are labouring under great difficulties.'

"Then, after showing that the Civil Surgeon of the 24-Parganas in his report that had been quoted in the letter to which he was replying, had not appreciated 'one of the practical difficulties of trenching,' Dr. Simpson continue as follows, and I ask the Hon'ble Mr. Buckley's particular attention to what he says:—

'If the instructions of the Government, as conveyed in their letter dated the 5th (*sic*) of July, had been followed and the bulk of sewage deposited in the trenches had equalled one-half the amount of earth filled in, the nuisance created would have been of a most pronounced character and would have probably produced a similar effect to that caused by carrying out the Government instructions conveyed in letter No. 58 T.M., dated 14th May 1895. With reference to Goragatcha, these two instances show that the Government are not well advised in these matters, and that they have been issuing orders on a subject in which the local authority have the advantage of sounder advice and more practical experience.'

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"It is my intention to give one or two more instances to show to what an extent the Government are liable to mislead themselves, in order that there may be no misapprehension that I am not speaking in vague generalities, and that I can substantiate what I have said in this connection. I shall content myself with what appears in but one letter from the Chairman, Mr. Ritchie, dated the 13th April, 1895. This letter is the same one from which I quoted with reference to the charge of Mr. Risley that the Commissioners had neglected the directions of the Government with regard to *bustee* and town improvement. The subject that I will take now is the suburban drainage scheme. The Government had incessantly charged the Commissioners with unnecessary delays, heedless of their protests that they were being unjustly charged. The European Press and the European public, uninformed as always on municipal questions, thought that they would be perfectly safe re-echoing charges made by the Government. Sir Alexander Mackenzie, on entering upon office, modified the opinion formed by Government, but Mr. Turner repeated the charges in this Council. This is what the head of the executive of the Corporation says in his letter :—

'3. It is at the chief executive officers of the Corporation, and not at the Commissioners, that these criticisms should be levelled.* * *

'4. I accept the full responsibility for the alleged unnecessary delays, and I wish to make it clear that the Corporation is in no way responsible for them.* * * * *

'11. It is unnecessary for the purposes of the present letter that I should touch further upon the details of the controversial points in the Calcutta drainage questions. I would only state my opinion that the better acquainted a person is with the physical conditions surrounding Calcutta, the more will he recognise the extreme difficulties of the drainage problems presented, and that it is a mark of sciolism to treat these problems as if they were capable of summary and expeditious settlement, and to refuse to make allowances for the great difficulties involved, as the public are too apt to do.'

"I ask the Hon'ble Mr. Buckley to particularly note the expression that is used with reference [illegible] attitude of the Government—'mark of sciolism.' When we ha[illegible] Government servant telling the Government [illegible]ght that their a[illegible] due to superficial knowledge, I think that the [illegible]ation must be des[illegible] very mildly indeed. I would ask the Council to observe that I have not dug deep for illustrations, nor cast for them over a wide area. I have given them instances from matters that have incidentally presented themselves in the course of the debates in Council. It should not

be a matter of surprise if I do not share the Hon'ble Mr. Buckley's confidence that the Local Government will always be a safe and reliable guide and adviser to the Municipality.

"The Hon'ble Member in charge of the Bill has during the progress of the proceedings given us assurances, on more than one occasion, of the intentions of the Government which have not been specifically expressed in the Bill. I confess that I wish to see the intention clearly expressed in the terms under which duties have to be performed or obligations are created. I unreservedly accept the Hon'ble Member's sincerity in the explanation he has given us, and I have no doubt left in my mind that under the present administration my hon'ble friend's statements will be strictly respected, but I do not view the prospect under future administrations without hesitancy. I will give my reasons for my doubts, and I take my illustration from material that is incidentally presented in the letter of the 13th April, to which I have referred for so many illustrations. I refer to the educational grant. By the Act of 1888 grant for primary education was for the first time an object to which municipal funds were made applicable. The proposal to make it a charge was vigorously opposed on the ground that the funds available were considered not more than adequate for municipal needs, and it would have been defeated if Dr. Gurudas Bannerji, now Mr. Justice Bannerji, had not pointed out that in fact a grant was already allowed, and it would be a hardship to disallow after amalgamation what had been allowed before. But I will give Sir Henry Harrison's own words in Council with regard to the question:—

'The reason was that we found that in the Suburbs such expenditure was actually being incurred, there being a grant of Rs. 3,000 for the purpose. We thought it would be invidious to deprive the Suburbs of what they had hitherto received, the intention being merely that their rights should be preserved to them.'

"I will quote from the Chairman's letter:—

'12. I pass from the drainage question to the matter of devoting funds to primary education. In paragraph 14 of the Resolution of the Government of Bengal, it is stated that "the Lieutenant-Governor observes with surprise the reluctance of the Commissioners to make the allotment of Rs. 10,000, which has been suggested as the smallest sum which the Commissioners can properly devote to a purpose which is universally recognised as holding a high place among the legitimate obligations of local authorities." Throughout the administration of Sir Charles Elliott the Bengal Government have treated the provision of primary education as an essential duty of the Corporation.'

[*Mr. Apcar.*]

"And we have the curious incident of the Chairman of the Corporation sending to the Bengal Government a copy of the proceedings of the Bengal Council in support of the protest of the Corporation against a demand made by the Government! During the administration of Sir Stuart Bayley the intention expressed by Sir Henry Harrison was respected. In the administration of his successor the history of the subject had been lost, and an endeavour was made to throw off the burden that lay on the Government and place it on the shoulders of the Corporation. Opportunity was given for this, because the words of the Act were capable of the extension of the grant to other primary schools besides that for which it was intended to allow the grant. Have I not reason, then, for having pressed for clear specific words to express the exact intention of the Government?

"Sir, during the progress of these proceedings I have with deliberate and set purpose utilised illustration after illustration in support of my contentions in order to answer the charges which Mr. Risley has made against the Commissioners. There are many matters which ought to be looked at from the other side which have not had consideration given to them; and I desired to demonstrate how very necessary it was that there should have been an enquiry in the first instance to see where the mischief really lay before this Bill was framed and before any action was taken by the Local Government. My deliberate purpose has been to show that many cases of mischief have escaped consideration.

"The charge upon which not the least stress has been laid has been the appointment of Special Committees, and the Complaints Committee has been singled out for special animadversion. With regard to the Complaints Committee we have found that complaints have been made by the public which have never been attended to, we have found eight, nine and ten reminders which have not been heeded. I remember one instance where I found thirteen reminders and was not able to trace the original complaint which had been made. I have placed before the Council, with regard to the tramway depôt, the fact that even the complaints from Government were not attended to. I have shown with regard to the Town Hall that no less than Rs. 18,000 had been passed by the Engineer's Department for payment that ought not to have been allowed at all. I have shown how, in the Suburban Drainage Scheme,

the Vice-Chairman did great service by disclosing a series of grave irregularities and neglect on the part of the Engineer's Department, all of which instances were substantiated on enquiry, with the result that the rate-payers were saved a large sum of money. I have shown how I personally disclosed that a most important part of the same drainage scheme was being executed without the sanction of Government as required by law, and the Chairman utterly oblivious of that fact. I have shown that the Executive are not to be trusted, and that it is not right to place them in an independent position.

"I say that all these matters that I have specifically referred to, and scores of instances of a like character, demanded that proper enquiry, and for the Commissioners to have allowed the administration to have proceeded in the ordinary routine and as if no investigation was required would have laid them open to the charge that they were neglecting their duties, and were not conscious of their responsibilities.

"I have challenged in as emphatic language as was open to me in this Council, in a previous stage of our proceedings, the truth and justice of the reasons for the charges that have been made, and I have most openly courted an enquiry with regard to them, but I have received no answer to what I have said. I claim to have displaced the burden of the charges that had been placed upon the shoulders of the Commissioners by statements of facts which there has been no attempt made to controvert. No such attempt could be successfully made, because my statements are supported by the direct authority of the records in the Municipal Office, and also in the offices of the Local Government. Where, then, are we to look for the reasons for the alterations that are to be effected under the new law? Mr. Risley gave one of them to be to secure better mortality returns, and he disclosed his idea of how this was to be done by the provisions of the Bill as it was originally framed. On examination in Special Committee his idea had to be abandoned, and the new law has made no practical change. We have been told that there has been a breakdown in our conservancy. The subject has not escaped the attention of the Commissioners. No class of persons have suffered so much as those whom the Hindu Commissioners represent in the northern section of the town, and no class of Commissioners, as I am sure the Chairman will bear me out, have been so urgent as they have been for improvement in the conservancy, and the Chairman, I am sure, will support me

[*Mr. Apcar.*]

that they have not been wanting in zeal and interest, and it is due to no fault of theirs, as an enquiry would show, if it is not more efficient. When Sir Alexander Mackenzie made his famous speech at Entally, all the faults, all the deficiencies which have been made so much of and given as reasons for this legislation, if they existed were known, yet it is evident, if only the question is examined, that the changes now enacted were not then, at that time, contemplated. The conclusion seems inevitable that the changes were determined upon first and the reasons for them put forward later, and possibly no one regrets his own connection with the subject more than my friend Mr. Risley himself, from whom I cannot withhold my sympathy altogether when he was placed in the position which he was compelled to occupy.

"I come now to the letter of the Government of India. I was taken aback when you, Sir, placed it in the same category as a Privy Council ruling, and as such told us that it should be regarded with the same respect and final. There is no doubt that the rulings of the Privy Council are regarded as being beyond controversy. Why is there the confidence in the High Courts and the Privy Council that the peoples of this country feel when they regard the action of the Executive as inscrutable, and sometimes with suspicion? It is that golden rule which has served to impart firmly their faith in the inviolable sense of the justice of British rule, and fixed their loyalty: the Privy Council are honoured and revered because of the absolute trust that they will most scrupulously uphold that golden rule—*Audi alteram partem.* I will not repeat what I have lately said in this connection, for it should be fresh in the minds of the members of the Council. Those who have blamed, those who have had charges levelled at them, those who in the interest of the public have opposed this enactment, have not been heard. I will go further and say the subject on which we have legislated has not been understood by responsible authorities by whose decision we have to abide. It is final because it has been treated as final, for the purposes of this legislation. I shall respect it because it has become the law, but I expect that the law cannot be continued unamended. I confess that I had hoped that there would have been some change in the Bill as an outcome of the letter which pointedly suggested the adaptation of the Bombay system. What is the difference between the two systems? The difference is that the executive is merged in the deliberative body in Bombay. The distinctive and fundamental idea of the present Bill is that the executive

is kept wholly distinct from the deliberative body. If we are going to have the Bombay system adopted in any particular, surely that—its guiding principle—should be one which ought to be embodied; but it has not been regarded. Sir, in conclusion I would point to my own position in this matter. I joined the Municipality as a nominee of the Health Society, I was asked to join because of the rather prominent part I had taken in connection with the Ilbert Bill agitation. I had helped to bring into existence the Defence Association which is now a recognised political body, and when I went into the Corporation I went in with all the prejudices and opinions which I find so prevalent even now. But, Sir, when I had joined I found that it would not be fair to criticise those who were taking their part in the administration of the city unless I myself took my part also. I did so, and it certainly opened my eyes. I felt that I would not be justified in criticising in the way that I had before been so ready to do with imperfect or no knowledge. I am not here as an advocate for either Hindu or Muhammadan. I wish now to support that view which I believe will give the best administration to the city of Calcutta. And why is there this difference of opinion between myself and those with whom I have been so long associated? The secret is that I have the knowledge and experience of municipal administration. The Hon'ble Mr. Oldham has told us that he has been a member of the Corporation for only one year. The Hon'ble Member in charge of the Bill had only a short experience in the Corporation. In the Corporation there has been no one so ready as I to oppose the introduction of political views. I am not accepted by the progressive Hindus as one of themselves. A supporter of mine in the election for this Council came to me, with tears in his eyes, telling me how he had been burnt in effigy because he had voted for me, and against one who is a leader in the Congress party. Throughout I have been opposed to the principles which are the leading principles of those who form the majority among the Hindus. But although I went to the Corporation as a political opponent from the first I met with the utmost consideration. There has never been a single Committee to which I have offered myself as a candidate to which I have not been elected. Sir, I am not here as an advocate of the Hindus, but I have seen how hard-working, busy men have come after a long day's work and entered into these public duties with zeal and efficiency, and I think I would be wanting in self-respect and every feeling of loyalty if I did not, when I find that the Local Government have joined those described by Mr. Risley

as the worst informed as to the evils that exist and the least responsible as regards the possible remedies for them, joined in meting out condemnation to the Hindus, if I did not rise in my place and speak out. The work in opposition to the Bill has been hard indeed. While the task of the opposition has been severe to hopelessness, the load on the present Government, I think, is the heavier, because with them rests the responsibility of the measure. And my regret and sympathy for them is the greater since we now are closing the last page of the most inglorious chapter in the history of the Bengal Legislature."

The Hon'ble MR. OLDHAM said:—"Late as it is, I am glad of the opportunity of being able to correct the misapprehension into which the Hon'ble Member who has just sat down has fallen as regards my connection with the Corporation. He appears to think that I am the merest neophyte in regard to municipal matters. He says that I would know more about them if I had been longer with them, and that it is dangerous for me to speak about what I do not understand. It will be a surprise to my hon'ble friend to hear that I am, with the exception of the venerable Maharaja Sir Norendra Krishna, the very oldest member of the Corporation in this city. I was a member of the Municipality when my hon'ble friend was a school-boy at Harrow or a freshman at Oxford. My hon'ble friend looks incredulous. I will give him the date —it was May, 1867. I think it is probable that at that time my hon'ble friend was technically liable to be birched by Dr. Vaughan. I have kept up my connection with the Corporation ever since. During the presidency of Sir Henry Harrison my interest in the working of the Corporation was very keen, and from it was derived that appreciation of the Hindu Commissioners to which I have given expression in this Council; and it so continued until I renewed my connection with the Corporation in 1898. My attendance since I rejoined has been regular, and the last annual report shows that last year it has been as nearly as possible double that of my hon'ble friend, and this proportion has been maintained since; so that by arithmetical calculation, and if work is to be measured by attendances, I have been doing as much in a year and-a-half as my hon'ble friend would do for the Corporation in three years! But I can assure my hon'ble friend that the Commissioners are not an inscrutable body of men. Any one with ordinary powers of observation who had served an apprenticeship of three months with the Commissioners would have just as good an idea of their work and their idiosyncracies as if he had spent a lifetime among them, and for four months I sat with them and studied their work

without opening my mouth at meeting, apart from the knowledge which I had gained previously. It is in the light of that knowledge that I will refer to the remarks of my hon'ble friend on those parts of my opening speech which appear to him to be inconsistent, or which he is unable to understand. The result of my observation of the Corporation during the long period of thirty-two years is that it has failed as a representative body. I cited as an instance the ward in which I now live. That ward was formerly represented in the Corporation by two European Commissioners. Then there was only one European, and at the present moment there are none at all. So utterly aloof did business men and Englishmen generally hold themselves from the Corporation; so thoroughly did they manifest their disgust with it, and so entirely did the system of representation fail. That was the point of my remarks which my hon'ble friend found it so hard to understand. That was the reason why I referred to only two Muhammadan Commissioners having been elected in a ward in which the English vote is infinitely stronger than the Indian vote. When the Hon'ble Member was reading that part of his written speech which referred in some detail to the relations of the new General Committee to the new Corporation, I could not help thinking that he must surely have written that speech eighteen months ago, when people were indulging in the dismal prophecies and gloomy prognostications generated by the new Bill. He seemed to speak as if the new Corporation will meet only once a quarter."

The Hon'ble MR. APCAR said:—"I said the framers of the original Bill had correctly gauged the amount of work the Corporation would have to do when they laid down that they were to meet only four times a year."

The Hon'ble MR. OLDHAM said:—"It was that intention which was dilated on, and any one unacquainted with the facts could not have realised from my hon'ble friend's speech that the Corporation is to meet not only once a month, but as often as it likes."

The Hon'ble MR. APCAR said:—"My hon'ble friend will pardon me. My contention was that there really will not be more work for the Corporation to do than they can get through in four quarterly meetings."

The Hon'ble MR. OLDHAM said:—"That I understand to be the argument, but my hon'ble friend did dilate on the fact that the Corporation could only

meet four times in the year, and that it could only take interest really in the annual budget, the annual report, and one or two other matters. Well, my conception of the functions of the new Corporation is entirely different. As I understand the matter, their duties will be far more extensive and will require many more than four meetings in the year. But at all events it is a fact that my hon'ble friend did not once allude to any of their other functions. He did not once allude to the fact that the Corporation has power to call for information from the General Committee. To any one who knows anything about the subject it is perfectly clear that it will be physically and morally possible for the Corporation to exercise an influence over the General Committee which will practically be control."

The Hon'ble MR. APCAR said:—"The Hon'ble Member is misrepresenting me. I did refer to that, but I said the General Committee have it entirely in their discretion to grant or withhold information."

The Hon'ble MR. OLDHAM said:—"I beg my hon'ble friend's pardon. I certainly did not hear those words. I did not hear that matter referred to at all. However that may be, my hon'ble friend certainly did not draw the picture which I am now drawing. That is that under the new law the Corporation will be able to obtain information from the General Committee, and that they will be able, sitting in solemn conclave with open doors in the light of day, and with all the responsibility which that position will give them, to denounce the General Committee and its works. Not that I believe that this is in the least likely to happen; I do not believe that it is possible. My hon'ble friend seems to forget that two-thirds of the members of the General Committee are to be elected by the Corporation, and if they behave in an obnoxious manner, their tenure of office will be extremely precarious, and they will be unseated. As a matter of fact, they will be the picked men of the Corporation. They will have intimate relations with the general body of the Commissioners, and they will of course discuss with them the business of the General Committee, just as they discuss it at present. Well, my hon'ble friend has corrected me, and I am glad he has corrected me, because I was about to accuse him of a method which I think he has pursued in another part of his speech, and of which I will give a more questionable instance; that is, of laying stress on one side of the case and entirely ignoring the other side. The other point I was going to touch upon, Sir, was when my hon'ble friend taunted Your Honour with the

change of views which, under the ruling of the Government of India, Your Honour has been obliged to adopt in this Council with regard to the constitution clauses of the Bill. The particular point is one of the greatest interest to me, for, if it is not indiscreet of me to say so, I had the honour of being referred to by you, Sir, on the question of there being two elected Commissioners for each ward. At that time I was much impressed with the energy displayed by the Ward Commissioners in regard to the establishment of Vigilance Committees and segregation hospitals, and with the control they exercised over municipal underlings; and I did think the retention of two Commissioners for each of the twenty-five wards would be wise. These were also Your Honour's views, and in the November following Your Honour was pleased to express your affirmation of these views, and explained in this Council the opinion which the Hon'ble Member has quoted. But in August last Your Honour with unfeigned regret had to explain to the Council that you had been overruled on this point by a superior, a responsible, and an impartial authority—that of the Government of India. My hon'ble friend was well aware of this, but he ignored it, and persisted in his taunt, even after the explanation given by my hon'ble friend in charge of the Bill that this Council is a subordinate Legislature. My hon'ble friend said he doubted if it might not be ungracious in him to cast up this change of opinion. If he retains any doubt as to the ungraciousness of his action, I can solve it and assure him with the utmost confidence that it was ungracious, most ungracious, and I venture to think that when he comes forth from this Council into the general society in which he and I move, he will find it called by a far harder name."

The Hon'ble MR. MACKENZIE said:—"May it please Your Honour, as the Member representing the interests of Commerce on this Council, I trust I may be permitted to offer my congratulations to the Hon'ble Mr. Baker, the Member in charge of the Bill, on his very able conduct of the measure. I consider, Sir, that he has done yeoman service to the town and to the State in the thorough and able manner in which he has piloted the Bill, first through two Select Committees and then in what I believe I am right in characterizing as the longest and most critical debate ever held in this Council Chamber. The Hon'ble Member in the course of the debate has more than once disclaimed being a lawyer, but I am sure that the learned Hon'ble Members of this Council who are also members of that noble profession—the law—will agree with me in saying

that the legal acumen displayed by the Hon'ble Member in charge belies that protestation. I shall not attempt to slay the slain by dwelling upon the absolute necessity of a reform in the municipal government of Calcutta. It is sufficient for me that the Governments of Bengal and of India, and the Secretary of State, have admitted this to the full, and that the demand that the European community have been making for years is at last being listened to. We of the commercial and trading community were perfectly satisfied with the Bill drawn up by the late Lieutenant-Governor, after full discussion with those whom we represent. We were as conscious as he was that the scheme which it embodied was not altogether symmetrical, or, if the phrase be preferred, 'logical,' but it was eminently workable, and provided the city with all that is required in the shape of a working Chairman, backed by a Council on which interests were represented and not *races*. I am free to admit that some of us thought it dealt too tenderly with the election sham; but when the Bill was introduced the object was to create, without undue delay, a municipal authority with power to cleanse the town effectually, in the hope of keeping away the plague. It was doubtless felt by its author that to burden the measure with a radical reform of the constitution of the main municipal body would open the door to endless discussion and controversy. I cannot help thinking, Sir (in fact we have evidence of the fact), that the native gentlemen who so strongly opposed the Bill, as originally framed, must now be feeling somewhat sorry for themselves. It was intended by that Bill to confine the work of the Commissioners in meeting to a *quasi*-legislative function, which alone a large body of that class was capable of performing, and to relieve them of executive responsibilities, which are best exercised by one man or by a small carefully chosen Town Council. The Select Committee, however, saw fit to restore to the main body very much of the executive control which the experience of the past has shown them to be incapable of exercising wisely, and that has opened the door to a complete reconsideration of the composition of that body. If the main body of the Commissioners is to control the executive, it is clear that it must itself be so constituted as to afford some guarantee that that control will be properly exercised. From that point of view the proposals of the Government of India have my support, but even with the reform in the constitution arranged, it is essential that the everyday work of the city should be left to the Chairman, as it is in Bombay to the Municipal Commissioner. I consider it essential that the Chairman, being responsible

for this, should have a free hand in the selection of his subordinate staff, They should look to him alone for orders and promotion. We should thus get rid of jobbery of subordinate appointments, which it is notable has characterised the present *regime.* Inspectors of nuisances, for instance, must be chosen, not because of their high caste or their relationship to Municipal Commissioners, but be men ready to do their work completely and honestly, and to carry out the orders of the Chairman and the Executive without fear or favour. I am glad, Sir, that the Government of India has admitted that it has a stake in Calcutta, and is responsible in the end for its good government. We all know how much has yet to be done to open out congested areas and effect structural reforms. If the Corporation is to be left to carry out all this unaided, either the reforms will be unduly delayed or the burden of local taxation will become intolerable. I trust, Sir, that the Supreme Government will recognise that taxation is already as high as can be borne, and will make over to the town other sources of income such as Bombay enjoys, or lend substantial aid in other ways. It has been argued by an Hon'ble Member that 'the active opposition of the people seals the fate of the measure, aud must go a great way to mar whatever good its framers may have anticipated from it.' But, Sir, what is meant by 'the people?' They care only for reduction of taxation. 'The people' and 'the Commissioners' are *not* the same thing. In one of the notes of dissent it is suggested that 'the Bill will distinctly reduce within narrower limits the power of the executive and make it *irresponsible.* Under the existing law the *Chairman exercises almost* all the powers which are vested in the Corporation.'

"In regard to this, Sir, I would only say that under the present system no one is responsible. If the Chairman has final authority, then he *is* responsible. If he has power only subject to appeal, then the appellate authority is responsible. By giving a general appeal you whittle away all executive responsibility. No officer of the Corporation will venture to do anything disapproved of by any Commissioner, or by anyone who can get at a Commissioner.

"When the Bombay Act (III of 1872) was under discussion Mr. Mangal Das proposed to give a right of appeal to the Town Council against every act of the Municipal Commissioner. The motion was lost, Sir Andrew Scoble, then Advocate-General of Bombay, opposing it as rendering the Act utterly impracticable (see Bombay Legal Proceedings of 1872, pages 319—22).

"As to the Chairman exercising all the powers of the Corporation, how *can* he act vigorously when his actions are liable to be upset at any moment?

"Then, Sir, in the matter of European and commercial representation, we have had it well rubbed into us in the several Notes of Dissent what a very insignificant place these interests occupy. In one of these Notes we are told that 'the Statement of Objects and Reasons makes a distinction between the interests of trade and those of the Government,' but that, 'as a matter of fact, the two interests are identical.'

"This, Sir, is news to me, and I should like to ask the writer whether trade has at any time merely followed the lead of Government, and whether trade interest would press for a license tax on its own business.

"If it means that the interests are identical so far as having a clean town and a healthy and properly conserved town is concerned, then I am at one with the writer.

"Further, a distinction is made between trade interests and 'the interests of the rate-payers.' But does not trade pay rates? And does it not pay license tax as well? Chapter XIV and Schedule III (*now* II*) of the Bill answers these questions completely.

"In a statement furnished in one of the Notes of Dissent it is shown that while Europeans own 12·6 per cent. of the assessable property in town, and pay 18·3 per cent. of the total rate levied, the Hindus own 60·4 per cent. and pay 59·5 of the rate; and I may add that while the former number 5·6 of the General Committee, the latter (the Hindus) have, or till lately had, 66·6 of the General Committee! But, Sir, this is not a fair representation of the monetary stake of Europeans, seeing that under proviso (*ii*) to section 148A (*now* 151) of the Bill the value of machinery is *excluded* from the assessment. Is capital irretrievably sunk in Calcutta to count for nothing? And Calcutta as a trade centre represents the important interests of the jute and tea industries and the whole export trade of Northern India. What is Hindu property against all this?

"Further, I say that the statement is not a fair representation of the contributions of commerce to the funds of the Corporation, in so far as no account is taken of the amount paid as *license tax*, which is *not* included in the consolidated rate, and which in itself is more than half the amount stated, to say nothing of the other heads of taxation more largely contributed to by commerce than

* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering is altered.

by other interests. Indirectly commerce pays to the Corporation the rates levied on the Port Commissioners' property in the Docks, &c. Were it not for commerce there would be no Port Commissioners and no rates payable by them; in fact, commerce practically pays the rates on all the lands and buildings in the town, for but for commerce the value of these would dwindle away to nothing.

"So much then, Sir, for the attempts on the part of dissenting Hon'ble Members to belittle the interests of commerce, and the absolutely unfounded statement that 'the difference to them being inappreciable, they are not concerned whether the rates are at 25 per cent. or 15 per cent.'

"Then, Sir, in the Notes of Dissent we are threatened with 'consequences,' 'discontent' and friction. What the 'consequences' may be, I think we may look forward to with equanimity; that the discontent will disappear in time is only reasonable to suppose.

"If there be 'friction,' it can only arise out of *faction*—the spirit of a section which would wreck the common interests, because it finds its own class deposed, which will not work with others because its own self-esteem has been injured.

"Personally I have a higher opinion of the sound common sense of the better class of native Commissioners than to attach importance to these warnings, and I would say to them—let us agree to accept things as they are, and with one object in view, *viz.*, the good of the land we live in.

"In this connection, Sir, I would venture to pay a very sincere, and in my opinion, and I feel sure in the opinion of the Council, a well-merited, tribute of praise to the Hon'ble Members who have opposed the measure, for the uniform good temper displayed by them throughout the protracted debate. I desire to specially mention my hon'ble friend Babu Surendranath Banerjee, on whom the principal share of the burden has fallen. Those whose cause he has been pleading have good reason to be proud of their advocate. *No item* essential to that cause, however small, has escaped his notice, or failed to elicit his strenuous support. He has had to fight a losing battle, and he has shown that most enviable of all qualities, *viz.*, that of being able to fight without loss of temper and with entire absence of personalities, veiled insinuations, and assumed monopoly of knowledge indulged in by another Member of the opposition. This fact, I think, augurs well for the hope I have expressed, that we shall yet see the *best* of the native Commissioners, who have recently felt it

incumbent on them to withdraw, returning to share the labours (and I would add parenthetically the *fees*) with those on whom the work of municipal administration under the new Bill may devolve.

"With these remarks, Sir, I beg to record my vote in favour of the Bill being passed."

The Hon'ble BABU JATRA MOHAN SEN said:—"Before making my remarks on the motion before us, I beg to join most gladly in the expression of the obligation of this Council to the labours of our Law Secretary, Mr. Wigley.

"I propose with Your Honour's permission to offer my respectful but firm opposition to the motion of the Hon'ble Member in charge of the Bill. After the exhaustive criticisms of the measure made by the Hon'ble Mr. Apcar, and anticipating others from the Hon'ble Members who will follow and who will be able to speak with authority, I desire to offer only one or two observations.

"Allow me, Sir, to congratulate ourselves on the termination of this unusually long debate, now that we are embarked on the final motion to pass the Bill into law, which also is coming to a close in a couple of hours.

"I must mention at the outset that although I felt at first embarrassed and disheartened at the ruling of order you, Sir, from your exalted Presidential chair thought fit to make,—that th main principles of the Bill, having been settled by the Council at their previous meetings, and by the memorable letter of the Government of India of the 17th June last, were no longer open to discussion, and that all motions relating to the constitution of the several municipal authorities were out of order,—I must confess that that ruling saved this Council from wasting their energy in the discussion of matters which would undoubtedly have been rejected by the majority of this Council, unless they thought fit to alter their opinions after reading the able joint minutes of the Hon'ble Babus Surendranath Banerjee and Narendra Nath Sen and the separate minutes of the Hon'ble Babu Surendranath Banerjee and Mr. Apcar, which was perhaps not probable, if not impossible. But after all it was desirable to have the points thoroughly discussed.

"But above all, Sir, I cannot refrain expressing my regret at the closure of the amendments relating to the constitution of the General Committee at any rate, which caused a great disappointment to us. Without disputing the

[*Babu Jatra Mohan Sen.*]

propriety of the ruling, I beg to observe that although the general principles of the Bill were no doubt discussed at the previous meetings of the Council, it cannot be denied that the only opportunity to discuss the Bill, section by section and clause by clause, and to move formal and practical amendments after the Bill had been examined and criticised by the public, was the one we had at the last reading and discussion of the Bill. The arrangement as to the formation of the General Committee, even if it was in line with the decision of the Council in April, 1898, and accepted at the discussion last month, was liable to be reviewed and reconsidered at the motions of amendments formally proposed and made after mature consideration on further light supplied by the representations of the several bodies and societies and other persons interested to offer suggestions. In the present case the letter of the Government of India having in a great measure introduced a change, the necessity to discuss principles of the constitution of the General Committee was greater.

"Now, Sir, the General Committee ought to have been constituted in conformity with the representation introduced in the Corporation. This has not even been done. No doubt it may be said that the letter of the Government of India stood in our way; at any rate that is the construction that has been put upon it, and I do not say that it is not susceptible of that interpretation. But the letter is susceptible of a more liberal construction, having in view the sympathetic tone and broad principles enunciated by the Government of India in that letter. The letter says, no doubt in most distinct terms, that one-third of the total number of 12 members of the General Committee should be nominated by the Government and the remaining two-thirds by the Corporation, which may at first sight mean that half of the two-thirds should be nominated by the Ward Commissioners and the other half by the Commissioners appointed by the mercantile bodies and the Local Government; but, if we examine more closely, it would appear that the Government of India were anxious to see 'that a strictly fair and proportionate representation of the constituent elements of the electoral body' was secured, and with that view desired the Local Government to devise some plan to attain that object. Now, Sir, three-fourths of the nominated Commissioners, *viz.*, 15, are appointed by Government and are not the representatives of any section of the electoral body. Therefore, in allowing them to take part in the nomination of the members of the General Committee, along with the Commissioners

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appointed by the mercantile community, the result has been to reduce the representation of the Ward Commissioners to one-third instead of half, as in the Corporation, and augment that of the mercantile community and Government to two-thirds. If, on the other hand, the Commissioners nominated by the Government were made to join with the Ward Commissioners in nominating the members to the General Committee, the representation would not have been so unequal, for the mercantile bodies would have a fair representation, namely, one-fifth, which is the proportion in the Corporation; but the best arrangement would have been to allow the Ward Commissioners and the Commissioners appointed by the mercantile bodies to nominate the two-thirds of the number of the members of the General Committee in the ratio of 5 to 2, the Government nominating the remaining one-third in consultation with the Commissioners appointed by them. This arrangement, I venture to think, would have been consistent with the views of the Government of India, as passages such as—'The Bengal Government will doubtless, therefore, find it desirable to suggest some plan that will secure to that proportion (two-thirds) of the General Committee, which is to be elected by the entire Corporation, a *strictly fair and proportionate* representation of the constituent elements of the electoral body' (paragraph 19), and '..... that there are features in Sir Alexander Mackenzie's Bill which are not in entire accordance with the principles just laid down, and which might not in practice ensure that amicable and patriotic co-operation of all parties in the future municipal government of the city, which is essential to its efficient administration' (paragraph 8)—evidently tend to show.

"The Government by the present arrangement secured a representation in the General Committee through the nomination by the Commissioners appointed by them, who, along with the representatives of the Trade and Commerce, nominate half of two-thirds reserved for the Corporation, and again has the right to nominate the one-third reserved for Government. Such anomaly could have been avoided if the subject had been discussed at the Council. Let us, however, hope for the best. The remedy is not gone yet; it has only been transferred to the hands of the Government, and I earnestly hope your Government will so nominate the members to the General Committee as to ensure that 'amicable and patriotic co-operation' as to harmonise the interests of the rate-payers with other interests.

[*Babu Jatra Mohan Sen.*]

"The strongest complaint of the rate-payers is that the reduction in the number of Commissioners, assuming that reduction in the numerical strength of the Corporation was necessary, for which no case seems to have been made out, has been directed to the body of the Ward Commissioners only without a corresponding reduction in the number of nominated Commissioners. The result has been a reduction in the elected representation of the rate-payers from two-thirds to half in the Corporation and from two-thirds to one-third in the General Committee, thus placing the elected representation in a standing minority. The tendency of this legislation has been the violation of the first principle of local self-government, *viz.*, the representation of the interests of the rate-payers. If the object has been, as it is avowed to be, to do away with the Hindu preponderance and to give adequate representation to the interests of trade and other communities, that, I venture to submit, has not been secured; for no provision has been made to represent native trade and the interests of Muhammadan and other communities of Calcutta. I hope this will be remedied by nomination that is in the hand of the Government.

"Another chief and vital objection to the present measure has been the deprivation of the Corporation of their general power of control and creation of independent and co-ordinate authorities, thus rendering the Corporation almost an useless and powerless body. Under the present arrangement, the main principle of local self-government, namely, the vesting of responsibility to the body to make it efficient, is wanting. The Corporation, shorn of all controlling power, cannot be said to be a responsible body, but on the other hand the whole blame attaches to that body in case of default made by the Chairman or the General Committee, especially when the chapter on control by Government has been made more stringent than before. To my mind it seems perfectly plain that sound legislation lies in providing stricter control in proportion to larger delegation of authority to local bodies, but in this instance the proportion has been the reverse of that principle.

"I think I ought to refer to one other feature, among others, of the Bill, *viz.*, the special provisions regarding the acquisition of land by the Corporation. They violate the accepted principles governing the cases of compulsory acquisition and the ordinary rules of evidence bearing on the subject, thus putting the owners whose lands may be acquired by the Corporation in a worse position than when the acquisition is made for purposes other than municipal.

[*Babu Jatra Mohan Sen; Raja Ranajit Sinha, Bahadur, of Nashipur.*]

"I take this opportunity to acknowledge that there have been introduced many provisions tending to definite improvement of the future sanitation of Calcutta. I should like to specially mention with a degree of pleasure the sound and improved rules regarding the regulation of buildings and bustees, although perhaps here and there slight concessions were possible. I admire, however, the stern attitude the Hon'ble Mr. Buckley assumed in being very slow to make concessions in this Council, for he said he would make no further concession, having already made all concessions that could have been made when the Bill was before the Select Committee, for which the people are grateful to him.

"If the Hon'ble Member had not assumed that attitude, I am afraid it would have been difficult to introduce reforms in this direction, as the people everywhere are always slow to realize the good intentions of the reforms, and are reluctant to the introduction of changes.

"I beg leave to thank the Hon'ble Members opposing the opposition section—I mean the section representing the popular side of the question—for the very kind and courteous manner in which they have treated throughout this long debate the members holding opposite opinions.

"And above all our thanks are specially due to you, Sir, for the very kind and patient hearing you have given us, and the greatest consideration you have shown in accepting some of the proposals which you thought reasonable but which would otherwise have been lost.

"In conclusion, I join in imploring the Government to take up the revision of Schedule III of the Bill at no distant time, and find out if any means could be devised to improve the finances of the Corporation; for to carry out the many reforms that may be necessary to be introduced when this Bill becomes law large funds will be needed.

"The interests of the land and house owners have been, in the opinion of all, heavily taxed, and no appreciable increase of revenue is expected therefrom. I beg to reiterate our fervent hope that your Government will, in nominating Commissioners both in the Corporation and the General Committee, exercise the power so as to harmonise the interests of all communities."

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIRPUR, said:—"Your Honour, I think no measure of this Council ever excited so much criticism as the

one which we are discussing to-day. There is not a single section of the native community left which has not strongly opposed this Bill. I agree in the main with the principles enunciated by Your Honour's predecessor in office, Sir Alexander Mackenzie, from the presidential chair in this Council prior to and after the introduction of this measure, that the every-day work of the city should be left in the Chairman's hands, and that in cases of emergency, such as the outbreak of plague, he should have larger powers to deal with them, and that there should be a small executive body interposing between the Chairman and the Corporation to deal with such matters which cannot properly be discussed by a large body, and which are at the same time so important as not to be left to the Chairman alone for disposal, and that the three chief interests in Calcutta, *i.e.*, the rate-payers, men of commerce, and the Government, should be represented in it. With Your Honour's permission I shall read extracts from the speeches of Sir Alexander Mackenize. On 26th February, 1898, he said:—

'The Bill is a large and, I hope, very complete measure, and deals with all branches of the administration of the city. It leaves untouched the number of Commissioners and the existing methods of electing and appointing them. While it reforms the procedure for election, which is admitted by everyone to be defective, it does not alter the franchise, nor does it reconstruct the present arrangement of wards. It provides the Corporation with an efficient executive, and interposes between the main body of the Commissioners and the Chairman a working Committee of twelve elected and appointed, so as to represent the three chief interests in Calcutta—the Government, the commercial community and the residents. * * * The General Committee, as the working body of the Municipality, stands between the deliberative and executive authorities, and deals with those matters which by their nature are ill-adapted for discussion by the Corporation, and yet are too important to be left to be disposed of by the Chairman alone. Power is taken for the General Committee to appoint Sub-Committees, on which I hope to see all the real workers among the Commissioners utilized.'

"And again on the 4th April of the same year, after the introduction of this measure in the Council, he said:—

'My theory of the Bill, the cardinal principle of the Bill, the essence of it, is that we must leave the ordinary every-day work of the city in one man's hands. * * * * If that is once secured, all the rest appears to be a matter of arrangement and detail.'

"But, Sir, I find the Bill is not confined within the said principles, but has gone far beyond it. Many revolutionary changes have been introduced in it. As I am not a resident of Calcutta, and have no personal experience of Calcutta municipal affairs, I shall deal only with the general principles of the

[*Raja Ranajit Sinha, Bahadur, of Nashipur.*]

Bill. I find unlimited powers have been given to the Chairman, who is not made responsible to anybody, and that large powers given to the General Committee by depriving the Corporation. The powers which were formerly reserved for the General Committee in the Bill as was originally revised by the Select Committee, and could not then be given to the Corporation composed of a large body of 75 Commissioners, could with propriety have been given to the Corporation as it will now be constituted. Sir, under orders of the Government of India dated 17th June, the number of the elected Commissioners in the Corporation was reduced on the model of the Bombay system. We all appealed that, if the Bombay system was to be adopted at all, it should be adopted in its entirety, as it was not fair to accept the most stringent parts of the law, leaving aside the most popular portions of it. And the Government of India also said in the 16th paragraph of their Despatch they 'are inclined to think that in this suggestion and in a mere close adaptation of the Bombay model might be found the solution for which they are seeking.'

"So, Sir, it would not have been against the principles laid down by the Government of India if a few seats were allowed to other influential representative bodies of Calcutta. I brought forward an amendment to that effect, but it was rejected by the Council on the very day I could not unfortunately attend owing to my illness. I am sure, if this would have been accepted, it would have to a certain extent pacified the popular feeling in the matter, and would have been in perfect harmony with the Bombay system. In the Corporation as now constituted the rate-payers, *i.e.*, the native element, are placed in minority, as the number of the elected Commissioners is 25, whereas the number of the appointed Commissioners, including the Chairman, is 26; and so, Sir, the broad principles of local self-government have been contravened. Then, Sir, as to the constitution of the General Committee which is vested with all the real powers in the municipal affairs, the Government of India desired that two-thirds of the members of the said Committee should be elected by the Corporation; but, as it now stands, I find the rate-payers to be in a hopeless minority. Not only this, Sir, but the non-official majority, which was in the Bill originally revised by the Select Committee, has also practically been done away with. The interests of the rate-payers in the town are great; they constitute the bulk of the population and contribute the bulk of the municipal taxes, so in my humble opinion they should have a larger share of representation in it; and I do not think it would have been against the

[*Raja Ranajit Sinha, Bahadur, of Nashipur.*]

principles laid down by the said Government if six seats in the said Committee had been allowed to the representatives of the rate-payers. Then, as to the representation of commerce, I find that four members of the said Committee, who were to be elected by members representing commerce, will now be elected not by them alone but by the Government appointees also; and as the number of the Government appointees in the Corporation is 15, and whereas the number of Commissioners to be elected by the Commercial bodies is 10, and if they vote to the full strength of their respective constituent elements, it is evident that the Government appointees will be able to secure those four seats also; so, practically speaking, no independent representation is allowed to that body, which was one of the fundumental principles of this Bill, and thereby the non-official majority in the General Committee had been practically done away with. Sir, I further beg to submit that the General Committee is again based on an illogicial solution which the Government of India was so anxious to avoid, as the representatives of the rate-payers form half the bulk of the Corporation; whereas in the General Committee they bear only one-third proportion. I am not yet fully convinced if the Government of India ever contemplated to bring about such a change in the General Committee. To my mind, Sir, it appears contrary. I still think that the Government of India thought they were making some concession in that respect. If they would have contemplated such a change, they would have never expected that their decisions in the matter would be a truce to all dissensions. I shall quote the exact words which the Government of India said in that respect:—

'The Government of India, however, who in framing these proposals have been actuated by a sincere desire to promote harmony equally with good government in the future, entertain the hope that there may, henceforward, be a truce to such dissension, and that the Bill, as remodelled, may be accepted by all classes in the spirit in which its modification has been discussed and put forward by them.'

"Sir, whatever be the case, the Bill as it now stands is certainly worse than what was originally introduced. I must admit that many improvements have been made in other portions of the Bill though not to our entire expectations, and many contentious matters have been removed, such as those relating to the registration of deaths and cremation of dead bodies, for which we are extremely thankful. I consulted not only many leading landholders who reside in Calcutta, and who are interested in the matter, but also some of them who have no interest here, and I found all of them opposed to

this Bill. So, as a representative of the landholders, I think it is my duty to oppose the Bill in its present form. I shall be wanting, Sir, in my duty if I fail to acknowledge with gratitude some concession which Your Honour has made in some important parts of the Bill while it was under discussion, and we are also thankful to my hon'ble friend, the Member in charge of the Bill, for the courtesy he has shown all throughout the discussion of such an important measure. With these few observations I beg most respectfully to oppose the motion."

The Hon'ble BABU BOIKANTO NATH SEN said:—"The passage of this Bill through the Council is irresistible, however strong the current of public opinion may be, and by public opinion I mean popular opinion. However strong that public opinion might have been—and it has been strong enough in all conscience—it has not, as we know, been strong enough to cause a diversion or deviation in the course of this Bill. If I had not been a new Member, and if I had had to take any share in the debates and discussions on the Bill at its earlier stages, perhaps I would have kept quiet and would have given a silent vote, simply entering my protest; but, as it is, I feel it my duty to make some observations on this occasion.

"It has been observed by the Hon'ble Member in charge of the Bill that at this stage, when the Bill in its present shape has been discussed in eleven sittings, that it would be stultifying ourselves to suggest that it may be thrown out. Undoubtedly it would stultify the authors of the Bill, but not those who have opposed the Bill from the beginning to this stage. It is in this position that we stand, and it is simply to justify the conduct that I am taking in this Bill, the attitude that I feel myself compelled to take, that I beg to offer a few observations by way of explanation. Now, Sir, the Hon'ble Member in charge of the Bill has observed that this Bill is a better and stronger one than the one which was originally introduced. He has further observed that three co-ordinate authorities have been created; that the want of proportion between the Corporation and the General Committee—that illogically—has now been removed; that there is a proper and true representation of the commercial community in the Corporation as well as in the General Committee; that the central control power has been secured for the Government; that good building regulations have been introduced; that beneficial measures regarding water-supply, conservancy, drainage and the registration of the births and deaths have all been introduced

by this Bill. On the other hand, the champions of the Corporation, the Hon'ble Mr. Apcar and the Hon'ble Babu Surendranath Banerjee, have also drawn Your Honour's attention to the other aspect of the case. The beautiful and recommendatory features have been put forward in lucid and condensed language by the Hon'ble Member in charge of the Bill with his usual ability. On the other hand, the Members for the Corporation have attempted to show how the existing Corporation is being deprived of its existing powers, how the Corporation becomes simply a consultative body having no voice whatever in executive functions and in the real administration of municipal affairs. It is not for me, Sir, to go over these grounds, nor is it necessary for me, a non-resident of Calcutta as I am, to go into the details, especially as these details and all these matters have been discussed during those eleven sittings. I do not propose therefore to go into these questions. It has been very properly observed by the Hon'ble Member in charge of the Bill that this Bill has been attempted to be introduced as an efficacious measure which will improve the health of Calcutta, it will improve it in sanitary respects, and time alone will prove whether it will be successful or not. We have got two sets of prophets here: one set of prophets prophesy that it will be a success; on the other hand, there are six others present who forecast the other way. No doubt, time will certainly decide whether the majority or the poor minority have been making the prophecy which is correct or not. I venture to think, with due deference to the majority, that the minority will turn out hereafter to have made the correct prophesy.

"Now, Sir, I have been told to-day that this Council is subordinate to the Supreme Council. I was all this time under the hallucination that this Council has freedom of action so far as provincial legislative measures are concerned; that this Council has a free hand. Now I am told that it is subordinate to the Supreme Council in matters of legislation. If it is so in that case, accepting that the Supreme Government has authority to direct this Council in legislative measures, that it has authority to indicate the line of legislation and formulate to us the principles of legislation, and accepting also Your Honour's decision that we cannot go beyond or behind the Government of India's Despatch, I beg still to contend that we have a right to discuss whether the principles formulated and the recommendations which have been made by the Supreme Government have been properly construed, and whether effect has been

given, to the intentions of the Government of India by the Select Committee and by this Council. I will touch only and confine myself to one point. When the Bill after it evolved from the first Select Committee and went up to the Government of India, at that time 75 Commissioners were to have constituted the Corporation and 12 the General Committee; and the General Committee were to be constituted in three equal component parts from three different quarters—the Corporation, the mercantile community and the Government. Now there was a great deal of excitement in consequence of that; public meetings were held; platform speeches were made; the Press discussed; and memorials were forwarded to His Excellency in Council, and then His Excellency decided that while there was illogicality in form; therefore the number of the Corporation should be reduced to 50. A hope was expressed by the Government of India that there be a truce to dissension. Now we are about to attribute earnestness to what was expressed by the Government of India in a serious matter like this. That is the position? Did the Government of India mean that, well you native rate-payers of Calcutta, when it was proposed that you should get 75 Commissioners for the Corporation and that the constitution should be in this way, you objected to this; there is want of harmony amongst you; well I want to stop all this; I want to please you all, and I wish that there should be a truce to all this dissession. What do I do? I say I will reduce the number from 75 to 50. I do that. Then further what do I do? I send back the case for the reconsideration of the Government of Bengal and for the reconsideration by this Council, with the hope that the Government of Bengal 'will doubtless consider the matter. The Government of India think that a General Committee, thoroughly representive both of the principal interests involved and of the larger Corporation, and qualified to discharge the important duties which it is proposed to place upon its shoulders, might be constituted by the nomination, as in Bombay, of one-third of its total number of 12 members by the Government and by the election of the remaining two-thirds by the Corporation itself. The circumstances of Bombay, however, differ materially from those of Calcutta, in one respect, *viz.*, in the numbers and strength of various communities that compose the total population of the city, and are represented in the Municipal body. The Bengal Government will doubtless, therefore, find it desirable to suggest some plan that will secure to that proportion (two-thirds) of the General Committee which is to be elected by the entire Corporation, a strictly fair and proportionate representation

of the constituent elements of the electoral body. Otherwise it might be possible for either party, in the chances of voting, by a bare numerical majority, to swamp the General Committee, and to secure that the entire two-third proportion should be of their own political complexion or class.'

"The Government of India then curtail the number from 75 to 50, and then it was suggested that the Government of Bengal should find some method by which there would be a true and fair representation in the General Committee. The rate-payers were thus attempted to be satisfied. The communication of the Government of India seemed to be clear that, while the number 75 was reduced to 50, there would be given a large proportion in the General Committee; otherwise it would be a sort of practical joke, and we precluded from attributing such a thing to the Government of India. The Government of India was certainly earnest; they wanted to give us something, and I submit that this would certainly have been, if, leaving aside the number 4 to be appointed by Government, of the remaining two-thirds in the General Committee these members had been elected by the Ward Commissioners and if two only by the commercial community, and that would have maintained the proportion in respect of the Corporation. The Corporation consisting of 25 out of 50, 25 by Ward Commissioners, half the number, half in the General Committee, 6 appointed by Government, 15 appointed Commissioners in the Corporation, almost one-third, one-third also in the Corporation and the other 10 in the Corporation, one-fifth in the General Committee, 2 would have been the fair proportion. There would have been therefore in that case a proportionate correspondence in the constituent elements of the two bodies. I venture to think, therefore, that it was really the desire of the Government of India that while reducing the members 75 to 50 of the General Corporation, it was the clear intention of the Government of India, in order that there might be a truce to all dissension, that the people might be satisfied, that there might be harmony among them, that there should be a greater representation in the General Committee. I venture, therefore, to submit that the Select Committee has misinterpreted and misconstrued this despatch of the Government of India, and that this Council too has confirmed the action of the Select Committee in accepting the numbers proposed by the Select Committee in the Bill.

"Now, Sir, I need only say a few words more. It has been observed by the Hon'ble Member in charge of the Bill that local self-government is

[*Babu Beikanta Nath Sen; Mr. Spink.*]

not being destroyed at all and there has been a change only in form. I submit, Sir, it is not in the form, but in the change in framework. There is a Corporation which is representative central power now; it will now be deprived of all its powers. There are three co-ordinate authorities created. The Chairman, let him be vested with certain executive functions, even sitting over the Corporation he might be permitted, his powers might be strengthened, but to create another body which will not be like the body we have now. local self-government is practically virtually being destroyed in Calcutta. Sir, the operation of this Bill when it is passed will not be confined to Calcutta, but I beg to submit that it will have its effect all over the Province. We come from the mufassal; we are not quite so much or directly concerned with the operation of the Act at Calcutta, but apprehensions are being entertained by the people living in the mufassal, a disappointment which has been caused by the formulation of the principles by the Government of India in their despatch. The alarm which has been caused is being shared by the people residing in the mufassal. They fear that under the garb of reform the pruning knife hand will be applied in a short time in the mufassal. That is a sort of thing which is very undesirable. The contentment of the people constitutes one of the pillars of the State. If there is contentment throughout the country, nothing need be feared about the internal disturbances. The contentment of the Bill might be sought after, but this Bill, I fear, if passed into law, will create discontent in the whole Provinces. With these remarks I beg to enter my humble, respectful, and yet firm and emphatic protest against the passing of this Bill."

The Hon'ble Mr. Spink said:—"I have much pleasure in supporting the motion of the Hon'ble Member in charge of the Bill, that the Bill as amended be passed. I very gladly pay a tribute to the excellent work performed by the learned Secretary to the Council in connection with this measure. I congratulate Your Honour and the Members of this Council that the final stage of this exhaustive and prolonged debate has now reached its final stage, and the general public will, I am sure, alike share the relief when debate and agitation on this vexed question have been set at rest. I do not propose, Sir, to detain this Council with any lengthy speech after the most able and exhaustive exposition by the Hon'ble Member in charge, for it seems to me that the

most ardent debater and the most interested listener must have had enough lately to satisfy the most hungry cravings!

"Well, Sir, my hon'ble friend Babu Surendranath Banerjee has frequently told us during this debate that he is no prophet, and yet, Sir, scarcely a day has passed in which he has not foretold the saddest prospects for Calcutta under this new Bill; and as for the Bill itself, I shall not be exaggerating if I say that he has foretold its doom.

"I am happy to say that, notwithstanding all that I have heard on the other side, and I have listened with the greatest attention and interest to all that the opponents of the Bill have had to say—and I am bound to add that their case has been conducted with the greatest ability and their arguments pressed with no little eloquence and insistence—I am still of the same opinion which I at first entertained, *viz.*, that this Bill is the best solution of the difficult problem of improving the municipal Government of Calcutta. No stone has been left unturned by the opposition in their endeavour to prove that no case has been made out for changing the law, and here again, I fear, I cannot agree. I am pleased to endorse all that fell from the Hon'ble Mr. Baker in regard to local self-government.

"We have been frequently told that this Bill lays the axe at the root of the broad principles of local self-government. Well, Sir, I am prepared to go with the Hon'ble Member who has told us this so far, that it does lay the axe at the root of local self-government by a single section of the community, and it is needless to say that I refer to the Hindu section; they appear, Sir, to appreciate local self-government in a high degree, so much so that they not only want to govern themselves, but they want to govern every one else, and they have been allowed to do so up to the present time; but of course a time has come when this could no longer go on. To my mind, Sir, it has been clearly shown that a change in the system has become necessary. Had the Government proceeded with more measured steps in the first instance when delegating their power to the local body, perhaps so great a change as embodied in the Bill would not now have been found to be necessary. Be that as it may, the elective system has been fully tried, and it has failed in its original object to provide Calcutta with a representative local governing body.

[*Mr. Spink.*]

"I believe when the original measure was passed a distinguished leader of the Indian community—I refer to Babu Kristo Dass Pal—gave it as his opinion that it was not at all to be regarded as a consequence of the system which was about to come into operation that a Hindu majority would be returned. How utterly he failed to gauge the probabilities of the measure has been conclusively shown by subsequent events; the system completely failed, as everybody knows, to return a mixed representative body, and, if for no other reason, it is certainly necessary for this, to change the law, in order that every interest in the capital shall be adequately represented in the Corporation. The provisions in the Bill will certainly do this, and it cannot be argued that a measure that distributes the privileges and powers associated with municipal government to all sections of the community strikes a blow at the foundations of local self-government. I maintain, Sir, that it widens the broad principles of local self-government, and for that reason I welcome this measure.

"It requires no words of mine, Sir, to demonstrate what commerce and trade have done for Calcutta; it is obvious to all, and has been denied by none, and it has been frequently referred to by Hon'ble Members in this Council; but as a member of the trading community of Calcutta I feel sure that I may be pardoned if I have regarded the situation throughout the consideration of the Bill more from a commercial than a sentimental point of view. I have nothing to say against sentiment, Sir, for it pervades our daily life, and happily so; but in a consideration like this I think we should not allow it to have too great an influence upon us. My friend the Hon'ble Babu Surendranath Banerjee may, perhaps, disagree with me, because he has so frequently pressed the sentimental side of the question in his arguments, and when listening to them I must confess that it has come to me in the light of a revelation that so much sentiment in such matters does lie hidden in the Hindu breast. Well, Sir, the commercial community of Calcutta had a rude awakening when plague visited its doors. Never before, I may safely say, was the fact so convincingly, and with such force and suddenness, brought home to it, of how intimately the interests, I may say without exaggeration, the very safety and existence of its vast commerce and trade, are associated with the good government and sanitary conditions of this great port; and because of this, Sir, it has become necessary that the commercial interests involved shall have a voice in municipal matters. For reasons already explained, this has not been possible under the existing law, and

[Mr. Spink.]

the provisions embodied in the Bill will, in my humble opinion, fully meet the case.

"The holding aloof of the European community from the Corporation in the past has been a favourite theme of the opposition. Whatever justification there may have been for it has, I submit, been fully explained away; and under altered conditions, what apathy, if any, there may have been, will cease to exist. As far as the members of the Calcutta Trades Association, which Association I have the honour to represent in this Council, are concerned, I think that I may claim that in whatever degree blame may attach to other members of the European community, members of the Calcutta Trades Association should be completely absolved of any. My hon'ble friend Babu Surendranath Banerjee was good enough to refer, in complimentary terms, to the good work done and devotion shown to the interests of the city by the members of that Association from the earliest days of the Justices up to the present time, and I appreciated very much his acknowledgments made in his usual graceful language, and likewise those of my hon'ble friend Mr. Apcar—although, perhaps, his remarks have not been quite so complimentary to myself—coming as they did from two of the oldest and most devoted members of the Corporation. Well, Sir, I am prepared to pledge myself to the assurance that as in the past, so in the future, will members of the Calcutta Trades Association be ready and willing to give their time and services to the work of the Corporation, and, if I mistake not, so will my hon'ble friend Mr. Mackenzie as regards members of the Chamber of Commerce. My hon'ble friends in the opposition need have no apprehension that the operations of the Bill will be allowed to fail for want of support from the commercial community of Calcutta. And, Sir, I hope it may not be considered presumptuous on my part if I say that, in my opinion, a larger infusion of this element into the Corporation should be of great benefit to it. The co-operation of sound men of business, who are in the habit of dealing daily with great commercial problems, such as the promotion and carrying out of large schemes, both of a public and private nature, entering into contracts, scrutinizing estimates, dealing with accounts and general office administration; with the other elements which make up the Corporation, should assist immeasurably in carrying out the work of the Corporation in an effective and prompt way.

"I do not wish it to be supposed, Sir, that I underrate the value of the services which have been so liberally and loyally given by the Indian members

to the Corporation up to the present day, among whom are to be found a large number of eminent lawyers and journalists; but I must confess, and I say it with the greatest deference to that learned profession, that in my experience I have invariably found that to introduce law means to introduce delay and to hang up your scheme indefinitely; and I do believe that if the commercial progress of the Empire rested in the hands of lawyers we should soon come to a standstill. My hon'ble friend Babu Surendranath Banerjee and his colleagues have once or twice said that they would welcome a larger number of the European community into the Corporation, and in face of this he had an amendment on the aggenda paper which, if it had been carried, would have excluded the Calcutta Trades Association! I am bound to say, Sir, and it did credit to his better judgment, that he soon produced an alternative amendment which did not seek to disturb the commercial element; and I attribute the reason for his so quickly realizing his mistake to the fact that he recognized how much the security of the accumulated wealth of his co-religionists in Calcutta depends upon the progress and stability of the commerce and trade of this port.

"I do not propose, Sir, to discuss the details of the Bill; they have been carefully thought out and most carefully considered both in the Select Committee and in this Council, and every effort has been made in the provisions of the Bill to safeguard the interests of every section of the community, rich and poor, while promoting those of the Municipality. Many concessions were made in Select Committee to meet the views of the representatives of the Indian community, their arguments have had a sympathetic hearing, and I believe it is admitted by them that the Bill, from their point of view, emerged from the Select Committee in an improved form. The Select Committee certainly did much to elevate the position of the Corporation and to ameliorate the condition of the poorer classes.

"I strongly approve, Sir, of the principle of co-ordinate authorities; the work of the Municipality should be got through much more smoothly and quickly and without unnecessary and frequent interference, one authority with another.

"I do hope that, as soon as this Bill becomes law, that one of the first things the new Corporation will do will be to put its house in order, in other words, to scour out and reorganize the whole of its establishments, and to

appoint responsible officers in each department, even if it necessitates some extra expenditure; for I feel convinced that, if this is done, great economies will eventually be effected and great improvement in the collections made.

"I quite appreciate the fact that the Corporation requires more income, and I hope some means may be devised to improve its revenue without inflicting undue hardship on any one section of the community. It is a difficult question and requires careful consideration, it is one which may be left with all confidence in the hands of the Local Government.

"The Bill as amended, Sir, as the Hon'ble Member in charge has said, is the result of the most searching investigation and revision, the principles of which were adopted in the first instance after mature consideration and based upon a wide knowledge of facts by your distinguished predecessor and subsequently accepted by Your Honour as sound; it has received the approval of the Government of India, and has been confirmed by the Secretary of State for India; it has the approval of a majority of the Select Committee and a majority of this Council; and I have much pleasure, as I said before, in supporting the motion before the Council that the Bill as amended be passed.

"Only one word before I finish—I hope I may be permitted to give expression to the hope that when the time arrives for this Bill to come into force that all loyal citizens, whether European or Indian, will come forward and unite to assist Your Honour's Government to make this new law the success which it ought, and which I firmly believe it will, be."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, I do not use the language of mere convention when I say that my first words on this occasion must be expressive of thanks to Your Honour and to my hon'ble colleagues for the patient and attentive hearing accorded to me during a debate which has now lasted for over eleven days. During this period it has been my duty to criticize, without reserve, various provisions of this Bill; but I shall not conceal my regret that the time at my disposal, since I have had the honour of a seat in this Council, has not been sufficient to enable me to bestow upon every single provision of the Bill that searching and exhaustive criticism which I am accustomed to bestow upon whatever passes through my hands in another place. Nor shall I conceal my disappointment that my criticisms

have not commended themselves to this Council in a larger measure than has actually been the case; with all respect for the judgment of the majority, and in spite of the adverse decision recorded, some of these criticisms still appear to me to be so reasonable that but for what fell from the Hon'ble Member in charge of the Bill this morning, I would be unwilling to believe that they would have been equally ineffectual, even if they had been advanced by an abler advocate gifted with powers of more persuasive eloquence.

"I have no desire, Sir, to review at this stage the history and fortunes of this legislation. I will not stop even for a moment to enquire whether it was wise, whether it was statesmanlike, for any Government to introduce into the Council chamber a measure of such magnitude, intended to mutilate, if not to destroy, the form of municipal government which has prevailed in the capital of the Indian Empire for well nigh a quarter of a century, till the facts had been ascertained by an independent commission of enquiry in whose decision the public might repose implicit confidence. I will not pause for a moment to enquire whether it was wise, whether it was politic, for any Government to undertake a measure of this character upon an alleged but unproved ground of corruption, which was first publicly formulated in a State document more than twelve months after the Bill had been introduced into the Council. These may or may not be appropriate subjects of discussion now. But I take it, it is perfectly legitimate at this stage to consider whether the Bill as amended, which in a few moments will become the law of the land, does or does not make adequate provision for the removal of the evils to remedy which the Bill was avowedly introduced. One of these so-called evils has been described to be the complete failure of the elective system to secure adequate representation even of the different interests existing in the native city; or, to put it in a more practical and more intelligible form, one of the avowed objects of the Bill was—I am quoting the language used by Hon'ble Members in this Council—one of the avowed objects of the Bill was to destroy the dominance of the educated Hindu in the Calcutta Corporation. That object, Sir, I mournfully confess, has been adequately secured by the provisions of this Bill; and I say, with all the emphasis I can command, that the Bill, in so far as it has attained this object, has my unqualified disapproval; in this respect it has not, and it cannot have, the smallest measure of my sympathy. But, Sir, it is instructive to enquire, what have you substituted for the dominance of the educated Hindu?

You have not satisfied yourself with replacing it by the dominance of the mercantile European or the progressive Muhammadan; but you have replaced it by the irresponsible executive. The fundamental principle of the Bill is the creation of three co-ordinate authorities—the Corporation for purposes of deliberation, the Chairman for purposes of executive government, and interposed between the two, a small General Committee, which in some respects is subordinate to the Corporation, which in others is superior to the Chairman and is sometimes independent of both. All this, Sir, looks very nice on paper, but by virtue of the power of unlimited delegation of authority which the Chairman possesses under the law, and against which it was my duty to enter my most emphatic but ineffectual protest, you have not three, but an unlimited number of co-ordinate authorities. I have no desire to anticipate the verdict of posterity, but I venture to affirm that it will be absolutely impossible for the Chairman, however able and however devoted he may be, to exercise any effective control over the numerous band of the executive to whom his authority must necessarily be delegated, and who in practice will either be irresponsible or will enjoy the delightful position of having an autonomous responsibility. But this is not all. You deny to the members of the Corporation the right of access to the records of the Chairman and the General Committee, you render public criticism impossible, you draw a thick veil of mystery over the misdeeds of the executive.

"But these, Sir, are not the only objectionable features of the Bill. I venture to remind the Council that one of the alleged flagrant abuses to remedy which the promoters of the Bill were so anxious was the growth of party-spirit and the appearance among the elected Commissioners of a class of professional and, in some cases, corrupt politicians. I ask, Sir, if there are any provisions in this Bill intended or calculated to remedy these evils if they really exist. I confess, Sir, I cannot recall to mind any single provision in this direction. On the other hand, I can recall to mind at least one provision which will have the effect of alluring the needy to the Municipal Board and of keeping away the honourable who will naturally shrink from a contest which may be construed as a contest for personal gain. I affirm that nothing has been done to remove or to prevent the recurrence of the alleged corruption. You declare that you have discovered a hidden gangrenous sore in a limb of the commonwealth, you refuse to open and examine it, you replace it by a new one, but you provide no guarantee that the sore will not reappear.

"I do not propose, Sir, to pursue this somewhat painful line of investigation, but apart from these questions I cannot conceal from myself that you have embodied in the Bill provisions not a few, which are inconsistent with the first principles of jurisprudence. In this connection, Sir, no one regrets more keenly than I do the absence at this crisis of my hon'ble friend the Advocate-General, whose impartial and independent criticisms would have been of the utmost value. Forgetful of Macaulay's maxim, that in codification we must have uniformity when we can have it, diversity when we must have it, but certainty always,—you have introduced into the law presumptions which are demonstrably untrue, and you have introduced variations from the general law for which there is no possible justification. You have maintained an arbitrary system of assessment which is inconsistent with the first notions of political economy, which is inconsistent with the law as administered in England, and which was introduced by reason of a misconception of what that law was. You have incorporated into the Bill variations upon the provisions of the Land Acquisition Act which are absolutely indefensible in principle, which under the garb of law will facilitate the confiscation of private property, which will in some instances operate to the injury of the citizen and in others, most unexpectedly, to the injury of the very Corporation they are intended to benefit. To crown all, the provisions of the Bill are so numerous, many of them are so novel and so complicated, and their intention and operation will lead to so many doubts and difficulties, that they will puzzle the best administrators, lead to the inevitable oppression of the poor, and foster mischievous litigation. These, Sir, are blemishes of a grave and serious character, and I shall be wanting in loyalty to the profession to which I belong if I were to accord my sanction to them.

"Before I resume my seat, Sir, I desire to take the opportunity of referring to the startling theory propounded this morning by the Hon'ble Member in charge of this Bill. I have met with some surprises in the course of this prolonged debate, but I did not know that the greatest of these surprises had been reserved for the very last moment. The Hon'ble Member in charge of the Bill has seriously defined the function of this Council to be to carry out the mandate of the Government of the day when the principle of any proposed measure of legislation has been approved by that Government. I would not have been surprised, Sir, if this had been authoritatively laid down to be the

duty of the official Members of this Council. Thus qualified, I might have left the proposition alone and unchallenged. But I repudiate, in the clearest possible terms, this extraordinary theory when it is applied to non-official Members. In spite of the doctrine expounded by the Hon'ble Member in charge, I retain, Sir, the right to think and judge for myself. I have made none the custodian of my conscience, and, so long as I have the honour of a seat in this Council, it will be my duty to advise the Council to the best of my ability and judgment, regardless of what this or that party may approve or disapprove."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Before I proceed to offer the few observations I have to make with regard to this Bill, I should like with Your Honour's permission to put a question to the Hon'ble Member in charge of the Bill. The question I wish to ask is, if formal sanction has been communicated to this Government by the Government of India in reply to the letter of this Government, No. 180D., dated the 4th May, 1899. In that letter sanction was asked to the penal clauses of the Bill. I have carefully gone through the Despatch of the Government of India, but I do not find any formal sanction whatsoever. May I be permitted to ask the Hon'ble Member in charge of the Bill whether this sanction has been obtained?"

The Hon'ble MR. BAKER said:—"The sanction is implied in the long letter which the Government of India addressed to this Government on the 17th June. The effect of that letter was to authorise the Council to proceed with the Bill on the lines laid down by the Government of India."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I take it then that no formal sanction has been obtained except such as may be implied."

The Hon'ble MR. BAKER said:—"I am informed by the Secretary that, under the rules of the Government of India, if formal sanction is not received within two months, it may be implied that sanction has been given."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Just as I was coming to this Council this morning, I received a letter which reminded me that to-day was the anniversary of the death of Raja Ram Mohan Roy. It seems to me to be most fitting that the anniversary of the death of the greatest Bengali of

[*Babu Surendranath Banerjee.*]

modern times should correspond with the date which will be remembered by the future historian of Bengal as the date which marks the extinction of local self-government in that city where he lived and worked and which was the city of his love.

"Sir, I do not remember any project of law which within the lifetime of this generation has created a graver sense of uneasiness, or one which has more profoundly stirred the hearts of the people. It has evoked the most persistent agitation since its introduction into this Council—an agitation which for its earnestness, the depth of feeling which underlies it, and the visible alarm which it embodies, is unparalleled in the annals of this city. It will not do to seek to belittle the intensity of these demonstrations. It will not do to say that this agitation is the work of wire-pullers. Where would the wire-pullers be if there was not a substratum of feeling upon which they might work? And, Sir, am I to understand that you are to set down as wire-pullers men like Raja Benoy Krishna Deb, Bahadur, Kumar Radha Prasad Roy, Bahadur, Kumar Monindra Chundor Mullick, Bahadur, Babu Joitirindranath Tagore and others, the illustrious scions of illustrious and princely houses? If they have been driven into the ranks of the agitators, the Bill is responsible for it. It is bad measures that make men agitators. It is good measures that rob them of their work. It will not do, I say so deliberately, to belittle the agitation which has been set on foot against this Bill. It represents all the culture, all the talent, all the wealth of this great city. It represents all that is highest and best and noblest in the municipal and the public life of Calcutta. Men who have never stirred out of their homes to attend a public meeting, men who have never uttered the whisper of a complaint against any measure of the Government of this country, men who have hitherto lived in the quiet and contented possession of their wealth and in the enjoyment of all that wealth implies, have felt themselves constrained under a sense of overwhelming duty to record their deliberate protest against this measure. Mark the opposition of my friend Raja Ranajit Sinha, Bahadur, of Nashipur, a most peaceloving, loyal and law-abiding man, and yet, as the representative of the landholding interest in Bengal, speaking with the weight of that interest behind him, he feels it his duty to record publicly and emphatically his deliberate protest against this Bill.

[*Babu Surendranath Banerjee.*]

"My friend the Hon'ble Mr. Oldham in the course of the observations which he addressed to us was pleased to say that this protest is the work of the Brahmins and the lesser Brahmins. No, Sir! This protest emanates from the voice of a united community. It is repeated in every Indian newspaper, it is reproduced in every vernacular journal, it is the talk of every bazaar in the Indian part of the town, it is the staple of conversation in every Indian home, and it has at last been reproduced on the Indian stage. The volume of opinion grows day by day until it bids fair to become the common opinion of a united community. I desire to remind my hon'ble friend, who is so anxious to belittle the intensity of public feeling with regard to this matter, of an expression of opinion which comes from an authority which my friend is bound to respect—an authority which is held in the highest respect by this Council—the authority of no less a man than John Stuart Mill. In his Essay on Representative Government, John Stuart Mill says 'The opinions and sentiments of the educated classes are sure to filter downwards and become in the course of time the opinions and sentiments of the uneducated masses.' Let us not, therefore, lay the flattering unction to our souls that this protest comes from a few interested people and their still fewer followers, and that, behind the din and noise which they have created, the great Indian community of Calcutta repose in the silence of peace and tranquillity.

"And here I have a matter of complaint, and when I make it I desire in the most explicit terms to eliminate your respected personality from that complaint. The complaint I have to make is as to the way the representations of my countrymen have been treated. The most painful feature in this most painful controversy is the total disregard shown for the Hindu opinion of this city. I repeat the question—how have you treated those representations, the memorials and petitions which were addressed to this Government not by dozens but by scores and hundreds? How have you treated these representations? With the exception of a memorial that was addressed to the Government of India, not even the courtesy of a reply was vouchsafed to any of them. My hon'ble friend will reply—and I can almost anticipate what he will say—that these representations were placed before the Select Committee and carefully considered by that Committee. I do not wish to question that statement in the smallest degree. No doubt they were carefully considered, and they were as carefully rejected. So far as the constitutional clauses of the Bill were concerned, these representations might not as

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will have been made. I ask then—where was the necessity for inviting the Indian public bodies to express their opinion with regard to those features of the Bill, the constitutional clauses especially, in connection with which the conclusions of the Government were foregone conclusions? Where was the necessity of enacting the solemn farce of inviting public opinion when anything that public opinion might say was not likely to make the least impression upon the mind of the Government? How different, Sir,—and I deplore the fact,—was the state of things in 1876 from the state of things now! How much more deferential the Government in those days was to the expression of public opinion—what greater latitude, wider scope and independence of action was permitted to official Members? Read the proceedings of the Council in connection with the Calcutta Municipal Bill of 1876, and you will find that the official members frequently voted on opposite sides, the Lieutenant-Governor on one or two occasions being in the minority. All that is now changed, and the result is that our amendments were massacred in the most ruthless manner.

"My hon'ble friend expressed his surprise that we should have our amendments chiefly to the constitutional clauses of the Bill, and that we should have thought it unnecessary to address ourselves more vigorously to the substantial part of the measure. There was a very good reason for that. Great concessions were made by my hon'ble friend in the Select Committee in respect of what he calls the substantial part of the Bill. The building regulations, as I said the other day, were completely recast, and my hon'ble friend Mr. Buckley, who has all the instincts of an administrator, expressed to me, if I may be permitted to betray the secrets of his prison-house, his surprise that such proposals should ever have been thought of as were embodied in the original Bill in regard to the building regulations. Therefore, Sir, so far as the substantial part of the Bill was concerned, important concessions have been made. Very little changes had to be proposed in that connection, but as regards the constitutional clauses my friend was inexorable; he would not move an inch; manfully or unmanfully he stuck to his guns—he would not make any concession, except the one to which I have had occasion to refer; and therefore in the discharge of that duty, which is imposed upon us by the mandate of our consciences and the mandate of our constituents, we felt it incumbent upon us to address our amendments chiefly to the constitutional provisions of the Bill.

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And, Sir, it was the highest duty imposed upon us as the citizens of this great metropolitan town that we should challenge with all the emphasis that we could command these revolutionary provisions in the Bill, the effect of which was to destroy the germs of local self-government in the capital of the Indian Empire. Your Government, Sir, was bent upon committing a grave mistake, and we as loyal citizens felt it our duty to prevent the commission of the mistake. Therefore it was that we directed our unremitting attention to those amendments which affected the constitutional part of the Bill. Our amendments as regards this part of the Bill were for the most part rejected, and our arguments did not produce the least impression. Was that due to the badness of the cause, or was it due to the inaptitude of the advocate? I can at least recall to mind one or two occasions in which it was due to neither of these causes. I will take a concrete case. In April, 1898, this Council by a unanimous vote affirmed the principle that there were to be 75 Commissioners on the Corporation, and that two-thirds of the Commissioners were to be elected. In August, 1899, the Council reversed its judgment in this respect. My friend and myself argued, we protested, we entreated, we exhausted all the resources of argument in connection with this matter; but we made no impression. The Council was obdurate and our amendments were rejected. Arguments which held good in 1898 were considered to be bad and useless in 1899. The *personnel* of the Council being practically the same, what then, Sir, had happened in the meantime to bring about this change in the spirit of our dreams? It was the mandate of the Government of India, and here we have the secret of the explanation which accounts for the ruthless massacre of our amendments. Our amendments, based upon reason, were overborne by authority—it was reason pitted against authority—mandate against argument—and reason succumbed—authority prevailed. I think my hon'ble friend the Member in charge of the Bill will bear me out in that statement.

"My friend has been good enough to say that ours is a subordinate Legislature. My friend the Member for the University has recorded a vigorous protest against the application of that expression, so far as it concerns the non-official Members of this Council. While my hon'ble friend says that we are a subordinate Legislature, a far higher authority than my hon'ble friend, the highest authority connected with the Government of India, the Secretary of State himself, from his place in Parliament has declared

that the Bengal Council was a self-governing body. We are indeed not a self-governing body. We may protest, we may argue; but we are overborne by the votes of the official majority. If we were a self-governing body, if we had been left to our own unaided impulses in this matter, to our own unfettered judgment and discretion, I am perfectly certain that the Bill would, so far as regards some of the most important features of the constitutional clauses, have borne a very different aspect altogether, and the community would have been spared the disappointment which they feel owing to the modification of the Bill in accordance with the mandate of the Government of India.

"And here, Sir, if I may do so without disrespect, I may add that the sense of disappointment has been accentuated by the ruling of Your Honour which shut out some amendments bearing upon the constitutional clauses of the Bill, on the ground that they traversed principles which had already been accepted by the Council. I most respectfully ventured to point out at the time that the ruling was altogether new and unprecedented, and that it was unfortunate as being applicable to a case which had excited the keenest controversy. I am bound to say, Sir, from my place as a responsible Member of this Council, that Your Honour's ruling in this connection has intensified public dissatisfaction.

"And here, too, I may advert for a moment to our daily sittings which happily are going to close to-day. Here we have been summoned and we have met from day to day for a period of more than a fortnight, and have sat sometimes from 11 in the morning to 5 o'clock in the afternoon in connection with a matter of the gravest magnitude and importance. Sir, where was the necessity, may I be permitted to ask, for all this worry and hurry? The affairs of Calcutta have been managed in the past without a measure of this kind, and those affairs might have been managed in the future, at any rate for a year or two, without a measure of this kind. I desire to point out that high-pressure legislation is often conducive to inefficient legislation, and that what is done in haste may have to be undone at leisure.

"And, Sir, I cannot help remarking in this connection that the circumstances of the Bill are altogether of a most extraordinary character. The Bill is of portentous size, extending over 650 sections; it was introduced into this Council amid the stifling heat of an April month, when people are more fit to be in bed than attend to public business, and it is being considered

amid the dog-days of September, after having been threshed out by a Committee upon which is entailed severer labour than any Committee has ever undergone in connection with any measure of this Council; and now, Sir, it emerges from this Council in a shape and form which makes it, I venture to add, one of the least acceptable measures which this generation has witnessed. My friend has been good enough to tell us that this Bill is a better Bill than the Bill as revised by the Select Committee. I listened with astonishment, bordering upon bewilderment, to a statement such as that. This Bill a better Bill than the one as originally revised by the Select Committee! Why, Sir, if I may be permitted to introduce this Council into a little secret I will say this—that it is the character of this Bill, the determined attitude of Government in regard to it, the hopelessness of obtaining any modification, and the natural desire to be spared the necessity of witnessing the closing scenes connected with the extinction of a cherished institution—it is these circumstances rather than any personal considerations or personal motives which determined the action of the 28 Commissioners who resigned; and I am proud to say that I am one of them. The Bill is distinctly worse, less acceptable, more retrograde and reactionary than the Bill as revised by the Select Committee, and I go a step further and say than the Bill as originally introduced into this Council. I think I shall be able to convince my hon'ble friend in five minutes time that he is hopelessly in the wrong, and that he ought to accept my view of the matter.

"The Bill as revised by the Select Committee restored to the Corporation the power of making some of the superior appointments which the original Bill had withdrawn, and which was obtained through the intercession of my hon'ble friend. It also sought to invest the Corporation with the power of the purse. These two powers remain to the Corporation at the present moment, and possibly my friend will say that therefore the Bill is a distinct improvement upon the Bill as originally introduced. No such thing. These concessions are nullified by the reduction of the representative element to one-half its numerical strength. The powers which the Corporation now possesses will be powers which will no longer be used by the representatives of the people. Those powers will be used by others than the representatives of the rate-payers, and therefore it must be admitted that the Bill is distinctly worse than the Bill as originally introduced, because that Bill left untouched the numerical strength of the representative element in the Corporation.

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"There is, I am afraid, a considerable measure of misapprehension with regard to this Bill in high quarters. The Government of India recommended a closer adaptation of the Bombay system. I venture to submit that there has been no adaptation of the Bombay system in any form or sense. The essence of the Bombay system, as my friend to my right has pointed out, involves the complete separation of the deliberative and the executive bodies. The principal characteristic of our system is a commingling of the two bodies and their functions. This is preserved in the Bill. Thus the chief characteristic and the leading feature of the Bombay system is wanting. Lord George Hamilton seems to be under the impression that he is giving us the Bombay system. In reply to certain observations which were made by Mr. Herbert Roberts from his place in the House of Commons, the Secretary of State said that, inasmuch as the Bombay system had been so successful in Bombay, there was no reason to apprehend a different result when that system came to be applied to the conditions of municipal life in Calcutta. He was under the impression that we are getting the Bombay system. Not at all, Sir. My hon'ble friend the Member in charge of the Bill strenuously resisted every attempt on our part to approximate the Bombay system to the system provided under the Bill. Like Cerberus, guarding the portals of the nether world, my friend has been maintaining jealous watch and ward over the provisions of the Bill, and he would not permit any sacrilegious interference with its substance.

"My friend the Member for the Corporation and myself made certain recommendations, the object of which was to assimilate the system provided in the Bill to the Bombay system. We proposed that the Corporation should elect its President. The Hon'ble Member in charge of the Bill objected, and the Council rejected the motion. We proposed that the General Committee should elect its President. My friend objected; the Council rejected the amendment. My friend would not even permit the Sub-Committees to elect their Presidents, in case the Sub-Committees had the Chairman as a member. He thought if the Chairman was there, he ought to preside, otherwise forsooth his dignity and prestige would be gone! We climbed down. We thought it was impossible to persuade the Hon'ble Member in charge of the Bill to accept these leading features of the Bombay system. So we recommended, again following the lines of the Bombay system, that the Corporation should have the power to appoint Committees to institute inquiries into matters relating to the municipal administration of Calcutta. The Hon'ble Member objected, the Council followed his

lead, and our amendment was lost. And then, Sir, the last of our amendments in this respect related to a very small matter, and it was this: that the Corporation should have the power of calling for any papers or extracts of proceedings from the Chairman. My friend again objected, again the Council followed his lead, again we were in hopeless minority. The faithful, the loyal, the devoted six manfully standing by their guns, and the twelve on the other side overwhelming us with the weight of their number.

"The object of the Bill throughout has been the exaltation of the authority of the Chairman and the diminution of the authority of the Corporation. The Hon'ble Member in charge of the Bill went so far as to say that he would not give to the Corporation any power which could with due propriety be vested in any other municipal authority. If that was the feeling which underlay this measure, why enact the farce of a Corporation at all? Why not reduce it to a department of the Government? Far better would it be from the administrative point of view—far more acceptable would it be to public opinion, if the Chairman was made an officer of the Government, responsible to Government for his actions, than that he should be left irresponsible in his present exalted office, presiding over a body retaining only the semblance and not the reality of local self-government. And yet in the same breath my hon'ble friend—and he has repeated the statement to-day—has told us that the Bill does not involve the extinction of local self-government, but only provides for the re-adjustment of the principles of local self-government. The Bill does not involve the extinction of local self-government! I am surprised at that statement. What does local self-government mean? If these words have any significance, any import, any weight, they mean this: the administration of local affairs by the representatives of the local public. But, Sir, if the representavties of the local public are reduced to a minority—perhaps to a hopeless minority in the governing body of the Corporation—what becomes of local self-government? Local self-government ceases to exist. My friend has been good enough to tell us that there has been a re-adjustment of the principles of local self-government. The Government of India, too, in their despatch observe that there should be adequate representation of the various interests which compose the corporate life and wealth of the city.

"Now, Sir, let us examine this principle with reference to that which constitutes the basal principle of local self-government as laid down by the

most illustrious exponent of representative institutions the world has ever seen. John Stuart Mill says—and I again quote from his Essay on Representative Government:—

'As the principal duty of the local bodies consists of the imposition and expenditure of local taxation, the electoral franchise should vest in all who contribute to the local rates to the exclusion of all who do not.'

"Therefore, Sir, according to John Stuart Mill, local representation must follow the lines of local taxation. Those who pay have a right to be represented. Those who do not pay have no right to be represented. Those who pay ought to be represented in the proportion in which they pay. Now let us apply this principle to the question of representation as raised in this Bill. What is the contribution of the local European community to the municipal taxation of the town? The sum total of municipal taxation comes up to about 46 lakhs of rupees. The local mercantile community contribute little more than one lakh or about 2 per cent; and, Sir, if, having regard to the contribution which the mercantile community make to municipal taxation, it could be urged that they were inadequately represented on the Corporation and the governing body of the Corporation, then a substantial ground would exist for the readjustment of the principles of local self-government. But no such case has been made out.

"And, Sir, in this connection I must advert for a moment to the observations which have been made by my friends the representatives of the Chamber of Commerce and the Trades Association. I have listened with very great attention and with the utmost respect to the speech of the Hon'ble Member representing the Chamber of Commerce. His speech when analysed divides itself into two parts. I desire to consider each of these parts. There is, firstly, the financial position taken up by my friend, and, in the next place, the constitutional features of the Corporation as provided in the Bill. My friend has told us that there is the Port Trust, which pay two lakhs of rupees towards municipal taxation. I quite admit that. And, Sir, if that were taken into calculation, would it make any difference—any appreciable difference—in the percentage of municipal taxation as contributed by the mercantile community? I do not think it would. My friend has been good enough to tell us—and the same argument has been repeated time after time by the Members representing the interests of trade and commerce in this Council—

that but for European trade and commerce Calcutta would be a mud-bank. I will come to the theory of the mud-bank presently. But, Sir, if we, the people of Calcutta,—I am speaking on behalf of the residents,—are so largely benefited by European trade and commerce, may I be permitted to respectfully ask whether my friends are not benefited almost in equal measure by being in Calcutta and, while there, making their thousands and tens of thousands and then retiring to their homes with their fortunes made? My friend the Hon'ble Mr. Spink shakes his head. Of course I do not know what his experience of the matter may be; but if Calcutta has benefited by the presence of European merchants, the European merchants have also benefited by being associated with us. It is a question of reciprocal obligations—a question of mutual benefit. Therefore, my friends have no right to put the matter forward in the way they do, as if we were the only parties who were benefited by the presence of European merchants here. Then, Sir, my friend has said there is a large quantity of capital sunk in Calcutta. If there is any capital sunk in Calcutta, how much larger is the quantity of capital outside Calcutta. Where are your mills? Surely not in Calcutta."

The Hon'ble Mr. MACKENZIE said:—"Howrah has a lot of mills."

The Hon'ble Babu SURENDRANATH BANERJEE said:—"Howrah is not Calcutta. We might extend the provisions of the Bill to Howrah, but Howrah is not Calcutta. Therefore, Sir, my friend will admit that he has made a mistake regarding the capital sunk as being in Calcutta.

"I rejoice, however, to find that there is a strong unanimity of opinion to which expression has been given by both my friends, the Member for the Chamber of Commerce and the Member for the Trades Association, to the effect that we must have more money for the improvement of Calcutta, that the limit of taxation imposed upon the humble dwellers of residential houses has reached its maximum, and that therefore, Sir, we have a right to appeal to the Government of India to come to our aid, and if the Government of India is obdurate and stony-hearted in the matter, and will not respond to our appeal, then we would appeal to the Hon'ble Members here representing trade and commerce, and ask them to consent to the imposition of an octroi or some other duty which would make a substantial addition to the municipal funds. Such a contribution from the mercantile community would at any rate have

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the effect of placing their representation somewhat upon a footing of correspondence with the taxation which they would contribute.

"With reference to the constitutional issues raised by my hon'ble friend, I do not know that it is necessary for me to deal with them at any length. My hon'ble friend representing the Chamber of Commerce seems to be opposed to any sort of appeal. He said, if you give the right of appeal against the orders of the Chairman, that would fritter away his responsibility. It is a novel principle which for the first time has been propounded by the Hon'ble Member. There are appeals from the Magistrate of the district to the Commissioner of the Division. Then there are appeals from the Commissioner of the Division to the Board of Revenue or the Lieutenant-Governor. Am I to understand that this right of appeal from one officer to another which continues in an ascending scale is in the smallest degree calculated to minimise that sense of responsibility by which I am perfectly sure every officer of Government is animated?

"One remark of my hon'ble friend I strongly object to. It must have been a slip—it must have escaped him in the hurry of the moment—it could not have been put down in his manuscript as a matter of deliberation or careful thought. He said he was glad that so far as the making of appointments was concerned by the Chairman his power has been raised in respect of salaries from Rs. 200 to Rs. 300 a month, for that would have the effect of avoiding jobbery. I will quote my hon'ble friend in charge of the Bill against the *obiter dictum* of the Hon'ble Member representing the Chamber of Commerce. My hon'ble friend the Member in charge of the Bill with all the weight of his knowledge as regards municipal affairs, and with all the experience which he possesses in regard to the Municipality of Calcutta, was pleased to tell us the other day in the most distinct, clear and emphatic terms that so far as the making of appointments was concerned there was no jobbery, no corruption, no malpractices of any kind; and, Sir, if my friend would only weigh the matter a little carefully he would find that his statement will not stand the test of scrutiny. The Chairman now makes appointments up to Rs. 200 a month. He will make appointments under the present Bill up to Rs. 300 a month. I gave a list of those appointments which he is likely to make. If there is jobbery now, there will be jobbery under the Bill. It would not make any great difference if ever

and above the appointments which the Chairman now makes he was called upon to make a few more appointments.

"Now, Sir, I would like to advert to the argument of the mud-bank. My friend was pleased to tell us that but for the European merchants and tradesmen Calcutta would be a mud-bank. Sir, I have heard it very often repeated that were it not for European capital and enterprise Calcutta would still be a reeking swamp. I am free to admit that we owe a great deal to European merchants, to the energy, ability and enterprise which characterise the princes of European commerce. But so far as the creation of Calcutta is concerned, is not the Government a substantial factor, and is not the Government of this country—that Government over which Your Honour presides—is it not a Government of Hindus, Muhammadans and Christians—is it not much more the Government of the Hindus and the Muhammadans than it is the Government of European merchants? And, Sir, have not my countrymen contributed to the making of Calcutta? Admitting for argument's sake that Calcutta is what it is owing to the enterprise of European merchants, would not such an assumption irresistibly lead to the conclusion that the Act of 1876 was a mistake, having regard to the law which we are now about to enact? Are my friends, the official Members, here prepared to say that the Act of 1876 was a mistake? Are they prepared to say that the Act of 1888 was also a mistake? Are they prepared to say that Sir Richard Temple and the distinguished men with whom he was associated, and that their successors Sir Stuart Bayley, Sir Henry Harrison, Mr. Herbert Reynolds and Mr. Macaulay—that all these great and distinguished men committed a blunder, and that they aggravated the blunder by extending to the suburbs the municipal system which it is now proposed to uproot both in Calcutta and the suburbs? I am a Hindu, and I am penetrated with a deep instinct of reverence for the past. I cannot approach the past except with feelings of the highest respect. Revolution and revolutionary measures are abhorrent to my nature. If mistakes were committed, and even if it was admitted that a mistake was committed in 1876, I ask is it not too late now to rectify that mistake? Mistakes, too, are consecrated by prescription. But, Sir, I go further and hold that the Act of 1876 was not a mistake, and I am prepared to accept the position which was taken by the Hon'ble Mr. Turner in this Council in connection with this measure. He said,

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quoting from Lord Ripon's scheme of local self-government, that it was consistent with its principles to reverse any system of local self-government when it failed, owing to the pertinacious neglect or the continued incompetency of those entrusted with its working. Has there been any such neglect, any such incompetency alleged against the Calcutta Corporation? And, if any such allegation has been made, can it be said that it is capable of being proved? My friend, the Hon'ble Member in charge of the Bill, in the course of the observations which he made to-day, was pleased to say that local self-government must now be judged as an institution which is in its youth, and by its results. I am prepared to meet my friend upon his own chosen ground, and I will say this: that if local self-government is to be judged by its results, it will be found that it has a claim to perpetuity in the capital of the Indian Empire. Read the proceedings of the Corporation. Read the administration reports of successive Lieutenant-Governors. Read the high testimony which they have borne to the efficiency of the Corporation. Look round Calcutta. Look at the sanitary works which have been carried out by the much-maligned elected Commissioners. Calcutta has been reclaimed by them and has been converted by them from a reeking swamp into one of the healthiest cities in the province. Therefore, Sir, I am entitled to hold that, judged by its fruits, local self-government has been a success in Calcutta, and therefore the Act of 1876 and the Act of 1888 were not mistakes, but that you are about to commit a grave blunder by reversing the policy of 1876.

"I do not think, Sir, that I should be justified in detaining the Council much longer. I have only a few words more to say, and I take my stand in opposing this Bill upon the resolution and the orders of the Government of India. The Government of India have declared in their despatch of the 17th June last that there should be no contravention of the broad principles of local self-government. I hold that this Bill is absolutely destructive of the principles of local self-government. Then, again, Lord Ripon in his great scheme of 1882 repeatedly insisted upon the desirability of associating the people of this country in the matter of the management of their local affairs, if only as a relief to the local officers and as a means of gratifying the legitimate ambition of the people. I will quote only two extracts from the Resolution:—

'The universal complaint in all departments is that of overwork. Under these circumstances it becomes imperatively necessary to look around for some means of relief; and the

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Governor General in Council has no hesitation in stating his conviction that the only reasonable plan open to the Government is to induce the people themselves to undertake, as far as may be, the management of their own affairs; and to develop or create, if need be, a capacity for self-help in respect of all matters that have not for imperial reasons to be retained in the hands of the representatives of Government.'

"And again—

'The desire of the Government of India therefore is not to force upon all parts of the country a uniform system of its own devising, but to secure the gradual training of the best and most intelligent and most influential men in the community to take an interest and an active part in the management of their local affairs.

'It is one of the inevitable drawbacks of a widespread system of State education that it encourages to an unhealthy extent a desire for employment in the public service, not only as a mode of livelihood, but as a means of obtaining influence and distinction. No more effectual remedy for this evil can be provided than by affording to persons of education and talent fair opportunities for devoting their energies to the public service in a non-official capacity.'

"The Government of India under Lord Ripon went so far as to say that they were prepared to sacrifice the ends of administrative efficiency for the higher purposes of popular and political education. All this is now to be reversed. The preponderance of the Hindus is to be cut down; their authority in the Corporation is to be curtailed. What have the Hindus done to merit this treatment at the hands of the Government? Is this the reward of their loyal, faithful and devoted service to the cause of local self-government extending over a period of 25 years! In the crisis of the plague they rendered valuable help, and Your Honour's Government was pleased to acknowledge their services. Is this then to be their reward? After this, what will be their incentive to associate themselves with the Government in public work for the benefit of the country? I venture to submit that the educated Hindus have a claim upon the sympathetic consideration of the Government. Sir, speaking as an educated Hindu, and as a representative of that race, I desire to say that we are the products of English education and English influences. We have been fed upon the strong food of English literature and of English constitutional politics. We are fired with a lofty ambition to serve our country and our Government. Are you going to stifle our ambition in that respect by closing against us one of those institutions which, more than anything else that I can think of, has contributed to the development of the public spirit and the

public li city? Far different was the policy, far different the tradi-
tions co by the illustrious names of those Anglo-Indian statesmen
whose g l philanthropy have founded and consolidated the vast and
stupendc of imperial sway. In 1833, Lord Macaulay, speaking from
his place in the House of Commons, on the occasion of the enactment of the Charter Act, used language which appears to me to have about it the ring of prophetic inspiration. He said :—

'It may be that the public mind of India may so expand under our system as to outgrow that system; that by good government we may educate our subjects into a capacity for better government; that having become instructed in European knowledge, they may, in some future age, demand European institutions. Whether such a day will ever come I know not. Whenever it comes, it will be the proudest day in English history.'

"Thanks to the beneficent efforts of a succession of distinguished Anglo-Indian statesmen, that day has now arrived; and, Sir, are you going to undo their work and the promises of their work? You will never succeed. You will never be able to roll back the tide of progress which has set in with such irresistible force in this country. The forces of progress will triumph over the forces of reaction. There may be a temporary check—a temporary defeat—a temporary reversal; the flag which we hold aloft may drop from our sinking hands, but others will take it up and lead it to an assured victory. Sir, to me the institution of local self-government in Calcutta has something of personal interest and personal concern. I cannot forget the debt which I owe to the Corporation. That debt will remain graven upon my mind so long as life endures. All that I possess in the shape of public spirit, in the shape of love of justice, in the shape of a sense of sobriety and of moderation, I owe to the Corporation; and to me it is a matter of the most poignant regret that an institution so full of promise for the benefit of our children should be closed against them, that, not being trained in the civic traditions of a self-governing Corporation, they will be driven to the ranks of irresponsible agitators. The ceremony and the function of to-day possesses for me elements of the saddest character. As I said the other day at a great meeting of my countrymen at the Town Hall, I was associated with the birth of local self-government in this city—I watched it at its cradle—I ministered to its growing wants—I rejoiced at the exuberant vigour of its manhood, and now it is my mournful task to be associated with a function which means the extinction of local self-government in Calcutta. No sadder or more melancholy task was ever

assigned to a public man; but these are the vicissitudes of public life. All the same, Sir, most earnestly and most emphatically do I renounce all responsibility in connection with this measure; and I will continue to live in the hope, the trust and the confidence, based upon my unswerving faith in the dispensations of a God of Righteousness—I will live in the hope and the trust that better days are yet in store for my native land, that the wisdom of the past will soon be vindicated, and that the inestimable boon of local self-government will, within a measurable distance of time, be restored to the city of my birth, the home of my sires, the destined home of my children and my children's children, round which cluster my dearest, fondest and tenderest associations."

The Hon'ble MR. BOLTON said:—"It will perhaps be an advantage if the fervid speeches of my hon'ble friends who have last spoken were followed by the few calm remarks with which I desire to conclude my share in the discussion of this important measure. I have not hitherto joined in the debates on the most important controversial questions which have been discussed in the course of these sittings, and I do not propose to take a different course to-day. These matters have been uniformly dealt with with admirable fullness by my friend the Hon'ble Member in charge of the Bill. I have no desire to strike a single note of discord or unpleasantness at the last hour. The stage has been reached at which it is possible to congratulate the Council, the Government, and the public on the termination of the prolonged contest which the Bill has excited. That legislative proposals introducing changes so important in the municipal constitution of the metropolis of the Province should have stirred the educated classes and aroused strong opposition was natural, and was necessarily anticipated. But it may be hoped that the final decision of Council will now be accepted and an end put to fruitless controversy. Whatever the views of the opponents of the Bill in regard to the principles on which the administrative machinery of the Municipality will be reconstituted, it will be generally admitted that many provisions have been introduced which cannot but conduce to the improvement of the administration of the city and the well-being of its inhabitants. I desire to offer my tribute of appreciation to the Members who have represented in this Council the opposition to the Bill. In the fulfilment of the task which they felt called upon to undertake, they have displayed unremitting industry, ability and

[*Mr. Bolton; Sahibzada Mahomed Bakhtyar Shah.*]

patience, and, if they have lost, to them remains the satisfaction of having discharged their duty in the fullest degree. Well may they say that it is better to have fought and lost than never to have fought at all. I trust that the men of light and leading in the Indian community of Calcutta will not permit any feeling of disappointment to restrain them from taking in the future as active a share in the work of the Corporation as they have done in the past. It will still be open to them under the new constitution to assist actively and with much influence in the municipal administration, and I venture to add that it is incumbent on them to place their services at the disposal of their countrymen and of the Government."

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH said:—"Your Honour, I have great pleasure in supporting this Bill. It is a wise, salutary and urgently needed measure. The experience of years has proved how much such an enactment was required. The Bill has been framed after mature deliberation, and the fullest consideration has been given to the opinions and suggestions of all interested in the matter. I look forward with the firmest hope to witness in my own time the good effects of the new Municipal Act in the town of Calcutta. The Bill is as perfect as anything human can be, and the Calcutta Municipality should soon take its rightful position as the model Municipality.

"There is, however, one matter affecting Muhammadan interests which I feel, as a representative of the Muhammadan community, I should not omit to mention. The Bill, as it stands now, will have the effect of shutting out the Muhammadans to a great extent from election, a fact to which the results of the past election bear ample testimony. As the Bill has for one of its objects to allow due representation on the Municipal Board to such class or community as may be inadequately represented, I would suggest that in the rules to be framed by the Local Government to regulate elections, provisions may be made to secure a fair proportion of Muhammadan representation on the Board and the General Committee. It must be distinctly understood, however, that I do not advocate the increase of the number of Commissioners to be elected. I think we should all of us be deeply grateful to our good Lieutenant-Governor and the Hon'ble Mr. Baker for the enormous trouble they have taken in this matter and for the wonderful patience they have displayed. His Honour's kindness is beyond all praise."

[*Mr. Buckley.*]

The Hon'ble MR. BUCKLEY said:—"Sir, during the progress of this Bill both in this Council and in the Select Committee, I have hitherto taken no part whatever in the discussion on the clauses which are commonly described as the constitutional ones. I do not desire to do so now beyond saying this: that to my mind municipal government is not a matter of classes; it is not a matter of races; it is not a matter of creeds; and, above all, it is not a matter of politics. I think municipal goverment is a pure, simple and often a very uninteresting matter of business," and that it matters little how the men who are selected for the work are appointed provided that they are interested in the work and competent to do it. Sir, the Hon'ble Babu Surendranath Banerjee has frequently in this Council argued for the supremacy of a class. Just now he told us that one class paid 40 lakhs, another class paid one lakh of municipal taxes; and, if I follow his argument, he would wish that the representation on the Municipality should be in those proportions. I do not believe in the application of this principle. You cannot regulate all matters in this life by the rule of three. The most powerful Committee in this world—the British Cabinet—is formed on no principles whatever, and I believe has no place, strictly speaking, in the constitution of the country.

"I would wish to refer, Sir, mainly to a few practical matters with which I am far more competent to deal than any questions connected with the constitution. The Hon'ble Mr. Baker in speaking this morning said that this Bill might be divided into two heads—the constitutional part and the practical part. The Hon'ble Babu Surendranath Banerjee, in his eloquent and moving speech, made it a great grievance that the representations of certain bodies had not received even the courtesy of a reply. To my mind those representations did receive the courtesy of the best reply it was possible to give them. They were most fully considered, and, what is more, they did have weight in influencing and changing many of the practical conditions of the Bill. The Hon'ble Babu Jatra Mohan Sen has been good enough to say that in the Select Committee I myself had some influence in making changes which were acceptable to the native community. To a very large extent, Sir, those amendments were the result of a careful and laborious study which I made of all the representations, not only those forwarded by responsible bodies, but those—some of great value—which were made by independent gentlemen who are members of the Corporation, and

[*Mr. Buckley.*]

I do take some little credit to myself that I was able to make some little modification in the building clauses and matters connected with them, which I believe were to the advantage of the native community.

"Sir, I wish rather to look forward than to look back. I would like to see what some of the duties and what some of the functions will be of this new Municipality. I prefer to do this rather than, like my friend the Hon'ble Mr. Apcar, to lose myself in the mazes of old discussions with reference to some rather unsavoury matters. The first point with reference to these practical matters to which I would refer is the important change which has been made in connection with the water-works of this town. I am rather surprised that no objection has been raised to the change either in the Select Committee or in this Council. The water-works of Calcutta are, I think, the most popular works that the municipality have carried out. At the same time, they are works which are of the greatest value to the people, which are most appreciated by them, and which it would be the greatest mistake to tamper with or alter to their prejudice. Now, Sir, I am firmly convinced that the alteration which will be made by this Bill, in gradually giving a continuous, in place of the present intermittent, supply, will be to the advantage of the people; but I am quite sure also that, just as in the first instance when water-works were established in this town they were opposed by the people, so I am quite certain that these alterations will be opposed when they come to be enforced, that they will be unpopular and that they will be decried. Sir, the Hon'ble Mr. Baker, in consultation with Mr. Hughes and others, has taken the greatest care in all the stipulations contained in the water-works clauses to deal with the change it is proposed to make with the greatest consideration for the people. The works, when they are carried out at a certain cost, will be more sanitary, more economical, in the long run they will save water and make it available for the increased population in the suburbs; they will be more satisfactory to the people, and they will not necessitate inquisitorial visits to their houses. But, Sir, when that system is enforced gradually and step by step, as it is laid down in this Bill that it shall be—it is laid down in the Bill that the alterations are to be enforced within five years in the town and seven years in the suburbs—I say, when these stipulations are enforced step by step, it is absolutely essential, if good results are to be obtained, that the rules which are incorporated in the Bill should be firmly and yet rigidly insisted upon. Hon'ble Members of Council will perhaps hardly follow me, when I say that it is a

[*Mr. Buckley.*]

physical impossibility to enforce the excellent arrangements which are portrayed in this Bill unless in reference to every individual house and in dealing with every individual person the regulations of the Bill are fully carried out. The work of the past has not shown that the Municipality does enforce regulations which are, at first, distasteful. It is essential that the new Municipality should do so or the improvements in the water-supply, contemplated by this Bill, will fail.

"I will now turn, Sir, to the important alterations which will be produced by the sections which deal with buildings. There are five main classes of such alterations. I will not detain the Council in detailing them. The most important are those which deal with the restriction of the area on which any person may build, or, if he re-erects his house, the proportion of the site on which he may re-erect his house. This, Sir, too, will give dissatisfaction; but again I say that it must be firmly enforced if any good to the town is to be obtained.

"One of the next most important points is that which deals with the width of streets. The Corporation will not be able to any large extent in the old town to do, I think, very much good under those regulations; but they will in the suburban part be able to do a great deal of good, and one of the results which will follow from the full execution of all the stipulations of this Bill and other works which are in contemplation will be that a portion of the population of the town will go to the suburbs; and I hope that the new Municipality will look after and will lay out their streets and roads in the suburbs on the principles which are detailed in the Bill.

"The Hon'ble Babu Surendranath Banerjee made some reference to the commercial community and intimated that they were unwilling to contribute their fair share to the expenses of the town. He also said in a former speech that the recommendations of the Building Committee with reference to opening out of the bad parts of this town had not received the consideration of Government, and I think his words were that Government had gone to sleep over them. Sir, I do not think the Hon'ble Member is well informed. I know that the Government has not gone to sleep on those recommendations, and that the question of opening out large parts of the town is not being neglected. The hon'ble gentleman will remember that one of the proposals made by the Building Commission was the insertion of certain new imposts from which funds would be provided for extensive improvements in the town. He will

also remember that one of those imposts was to be one which, if it is imposed, will bear upon the commercial, and only on the commercial, population of this town: that is a jute tax. I do not think, Sir, that he is justified in saying that the commercial population of Calcutta is not willing to bear its share of the burdens that are coming to the town.

"Sir, the arrangements which have to be made with reference to the practical part of the Bill lead me to make one appeal to the new Corporation. We have heard frequently from the Members who have opposed this Bill that everything that goes wrong in the Municipality is the fault of the executive. The cry has been raised over and over again—it is the executive that is in fault! I am not prepared to say that there is not some force in this cry. I think there is: but, Sir, the force, to my mind, tends rather in a direction different to that which is indicated by the Hon'ble Members who have brought forward the charge. The Hon'ble Mr. Apcar went so far as to speak of the executive, who have served the Corporation so long, as a body that the Municipality has been unable to trust in the past; and he twitted me, and as I fully admit he has a right to do, with what perhaps may be my hobby horse with reference to this Municipality, the word 'decentralization.' The Hon'ble Babu Surendranath Banerjee has frequently said, and he said it in his speech to-day, that if you pass this Bill, if you do this, that, and the other, why do not you make the Corporation a department of the Government? Sir, my answer to this is also to a large extent my answer to those who constantly, frequently and persistently attack the executive of the Corporation. What, I ask, would be the very first thing the Government would do if it did make the Corporation a department of the Government? I would take one section of the executive establishment with which I have some personal knowledge, the Engineer's Department. One section of the Engineer's Department deals with buildings; it deals with roads, with drains, and with a thousand other things which affect people. The Government also has a staff in this town which deals with buildings, deals with roads, deals with a few drains, and deals with the water-supply to large hospitals, and so on. I have been to some trouble to compare the establishment in the two cases, and, to put the matter shortly, my comparison results in this: that the Government, roughly speaking, pays just double what this Corporation does to its executive staff for the same volume of work. It has in this town two Executive Engineers

with a full staff; the Corporation practically has only got one Executive Engineer with, I think, an inefficient staff. I say, Sir, that if your Government were to take over the management of the town, the very first thing they would do would be to carry out substantially a scheme which has been before the Municipality for years, a scheme of decentralisation, a scheme for appointing four officers of the rank of Executive Engineers in different parts of the town to carry out the duties which are imposed upon them. Sir, we have often heard, from the Members who represent the Corporation, how terrible is the corruption which prevails among the municipal underlings. I do not know how far this extends, but of this I am quite certain: that if they would carry out what I have said, and would place responsible officers, who are above suspicion, in such situations that they can be accessible to complainants who have now to pay these bribes, that they will go a long way indeed in abolishing all that corruption. But, Sir, my main object in referring to this matter is not so much to make any suggestion of detail, but it is this: in this Bill there are new duties laid upon the Corporation, and I am quite certain that they will not be efficiently performed unless not only do they reorganise their own doings and their Committees and their Sub-Committees, which section 88 (*now* 95) allows them to do, but also reorganise, increase and strengthen the executive establishment which they delight to find fault with. That the Bill will do good I have no doubt. That it is perfect I do not maintain; but if the men who can influence this town, and do influence the town, will come forward and will work heartily in view of the responsibility that is placed upon them, I have no doubt that the Bill must speedily tend to the great advantage of Calcutta."

The Hon'ble MR. BAKER, in reply said:—"I do not propose to go over the whole of the debatable ground which has been traversed by so many speakers to-day. I propose only to refer very briefly to two or three points which have been touched upon by the Hon'ble Babu Surendranath Banerjee and one or two other speakers.

"In the first place, Sir, I desire to associate myself with what has fallen from the Hon'ble the Chief Secretary and also from the Hon'ble Mr. Mackenzie as the tribute of admiration which they bestowed on the excellent good temper, patience and courtesy with which the Hon'ble Babu Surendranath Banerjee has conducted his difficult task. That admiration is increased by the really eloquent speech with which he favoured us this afternoon.

[Mr. Baker.]

"The idea which appears to run through the whole of the arguments and criticisms which have been directed against the Bill is that the Commissioners elected at ward elections are the only representatives of those interests which are entitled to representation, and that they alone are the representatives of the public. The Hon'ble Babu Surendranath Banerjee, in defining local self-government, has said that local self-government means the administration of local affairs by representatives of the local public. With the change of one word I would accept that definition. Instead of 'local public,' I should say 'local interests.' With that change I think the definition is a correct one; but the Hon'ble Member proceeds to misapply it. He assumes that the only representatives of local interests or of the local public are those Commissioners who are elected at ward elections. It is just because the Ward Commissioners do not represent all local interests equally or justly, that we now seek to make this change in the law. We are not seeking to create a new distinction; we are seeking to remove an old one. We are seeking to redress a wrong and an injustice which was not foreseen in the Act of 1876; which was only dimly understood when the Act of 1888 was before the Legislature; but which during the past ten years has become patent for all the world to see. The interests which are represented by commerce and trade are practically excluded from the constitution of the Corporation under the present Act. That is the wrong which we have now set ourselves to redress. The Hon'ble Member said that he would deal with the so-called mud-bank theory, but all that he said was this: he admitted that Calcutta had owed a great deal to European commerce and to European merchants; but, he asked, is not Government also a substantial factor in creating the wealth of Calcutta? Sir, on the 7th August, when I had occasion to deal with this matter, I coupled together the Government and the interests of trade and commerce, and I said that these two great interests taken together had created nine-tenths of the whole value of property in Calcutta. Since then, Sir, my attention has been drawn to a statement that was made by Sir Henry Harrison in 1890. I am quoting from memory, and I cannot therefore be certain of his exact words, but the substance was this: that even if Calcutta remained the seat of the Government of India and the Government of Bengal, yet, if trade and commerce were to be withdrawn from Calcutta, five-sixths of the whole value of property would disappear. Five-sixths of the whole value of the landed property and house property in Calcutta is directly due to the operations of

trade and commerce. These interests, if left to the chances of election, would find themselves in a hopeless minority. The European community have from time to time been taunted for abstaining from doing, what is nominally in their power, to serve on the Municipal Board, because they find themselves in a minority. I think, Sir, that those charges come with a very bad grace from gentlemen whose representatives now tell us that the Corporation is about to be closed to the Hindus. In what sense is the Corporation going to be closed? The Hindus if they take advantage of the opportunities which are open to them will have at least one half of the total number of Commissioners on the new Board, and if they continue to discharge their duties with the same vigour, the same knowledge, and I will say with the same ability as in the past, they will exercise, I will not say a dominating, but, at all events, a powerful influence. The Hon'ble Member said that the agitation against this Bill was not the work of a class; it was common to all classes, high and low; it was common to all newspapers. I will read to the Council a short extract from a paper which has a large circulation in Calcutta—the *Basumati*. The paper is that of the 17th August, and this is what it says:—

'There are many among us who think that the Viceroy's decision has destroyed the principle of local self-government. We do not think so. No one will say that self-government is confined to one, and only one, form. There are various ways, various methods, various forms, of self-government. If the existing system of self-government cannot be changed or modified even with a view to improve our present condition, then it is no self-government which we enjoy; it is subservienoy to a *form*, to a barren system. The Bill in question no doubt changes the existing form of self-government; it does not destroy its principle.'

The Hon'ble BABU SURENDRANATH BANERJEE said:—"What the Hon'ble Member has just read is not the opinion of the *Basumati*, but a translation of a speech of the Hon'ble Member himself."

The Hon'ble MR. BAKER said:—"The Hon'ble Member is entirely mistaken. In the first place, I have never said anything resembling these words. And, secondly, the passage is an editorial, and not a report at all. My hon'ble friend Mr. Oldham informs me that the *Bangabasi*, with a much larger circulation, has expressed the same sentiments. This is a translation of what appeared in the *Basumati* on the 17th August. I am certain it is no translation of any speech of mine."

[*Babu Surendranath Banerjee; Mr. Baker.*]

The Hon'ble BABU SURENDRANATH BANERJEE said;—"I must point out to the Hon'ble Member that the *Basumati* is one of the strongest opponents of this Bill."

The Hon'ble MR. BAKER said:—"Then they blow hot and cold. Probably they have two editors and more than one policy.

"I will now turn to a remark which was made by the Hon'ble Mr. Apcar. He said the original Bill assumed that there was to be a Hindu preponderance in the Corporation; and he argued, now that you have got rid of the Hindu preponderance, why do you retain the provisions of the original Bill? He was referring to the distribution of powers between the three co-ordinate authorities. Now, Sir, if the Hon'ble Member had taken the trouble to compare the original Bill with the Bill as it emerged from the Select Committee, he would have found that there were very material changes; that in very numerous points the Select Committee had transferred powers and duties from the Chairman and the General Committee to the Corporation. And, if he turns to paragraph 12 of the letter from the Government of India, he will find that it was these very changes and that very transferance of power to the Corporation which led the Government of India to suggest the modification in the Corporation itself.

"I will now turn, Sir, to one remark which fell from the Hon'ble Dr. Asutosh Mukhopadhyaya. One of the points to which he took serious objection was the unlimited power of delegation which is conferred by the Bill on the Chairman. I listened to his remarks with surprise. The Council will probably remember the fate of the Hon'ble Member's amendment on that very point. I pointed out in a very few words that the effect of the amendment which the Hon'ble Member moved with a view to restrict the Chairman's power of delegation would be to bring the whole work of the Municipality to a standstill within 24 hours. I pointed out that it would be necessary if this amendment was carried that the Chairman and the Engineer in their own persons, those two officers and no one else, must do the whole work of examining the 20,000 water-connections in the town, the 5,000 connected and the 52,000 unconnected privies. On that the Hon'ble Babu Surendranath Banerjee rose and advised his friend to withdraw the amendment, and that advice was accepted. In the face of that, I think the Hon'ble Member is hardly justified in taking exception to the powers of delegation which the Bill confers, and I will just add that those powers are exactly the same, neither greater nor less than the powers which the Chairman exercises under the existing Act.

[*Mr. Baker.*]

"The Hon'ble Member also took exception to the description which I gave this morning of what I conceived to be the functions of this Council. I was careful in the remarks I made to state that I was expressing my own opinion only and was speaking only for myself. The Hon'ble Member entirely demurred to the restrictions which I considered to exist on the powers of this Council, but he was answered in the most complete and the most surprising manner by the Hon'ble Babu Surendranath Banerjee himself. That Hon'ble member asked, why has the Council, which in April, 1898, accepted the view that there should be 75 Commissioners, why is it that in August, 1899, the same Council reduced that number to 50? He told us that this was done simply under a mandate, because that was the direction of the Government of India, because that was the principle which had commended itself to the Executive Government. That, Sir, is exactly my position. When any principles are accepted and laid down by the Executive Government, it is the duty of the Council to accept those principles, and it has no authority to enter upon any legislation which is in conflict with those principles.

"The Hon'ble Babu Surendranath Banerjee complained of the hurry with which the proceedings connected with this measure have been pushed through. He said we had been sitting daily, sometimes from 11 to 5 o'clock, and he might have added sometimes from 11 to 6 o'clock. I would invite the Hon'ble Member to the proceedings in the Council of His Excellency the Viceroy in connection with a much larger and much more contentious measure than this—a measure which is only 18 months old—I mean the Code of Criminal Procedure. The Report of the Select Committee, if I remember rightly, was published on the 17th February, 1898. The Council adjourned until the 4th March. It was again adjourned without any discussion of the measure until the 11th March. The Council met on the 11th March. It sat and discussed the measure on that day and on the following day, and on the afternoon of the 12th March that Bill was passed. It is an Act which is, I think, even larger in mere bulk than the Bill which is now before us. It is infinitely wider in its operation, for it extends to the whole of India; it affects the procedure in every Criminal Court in this country, and it contained also some new matter of a highly contentious character; it had been under consideration for a long time; it introduced many changes in the law, including changes in connection with the law of sedition. Those were certainly important and contentious in the highest degree, and yet

[*Mr. Baker; the President.*]

the time that was allowed for consideration of that Bill was only three weeks, and the time occupied in the actual discussion was only 48 hours.

"Lastly, Sir, the Hon'ble Member said that this Bill would be one of the least acceptable ever passed by this Council. I find, Sir, that exactly the same thing was said in 1888, when the Bill which is now Act II of 1888 was being passed; and the very gentlemen who are denouncing the measure which is now before the Council at this moment are the staunchest upholders of the Bill which was denounced in 1888 by their predecessors in the Council."

The Hon'ble the PRESIDENT said:—"I congratulate the Council on the completion of this very heavy task. It has been a heavy task. I can recall no measure of legislation in this country which has entailed such prolonged and minute labour. A strong Committee of the Council was engaged on its details for six months. The Council as a Committee of the whole house has sat for eleven days considering the report of their Select Committee and the 565 amendments which were tabled to improve and alter the Bill as it left the Committee's hands. I have never known a Bill subjected to so close and searching a criticism. The 565 amendments concerned 197 of the 641 sections of the Bill. If the minute scrutiny of the most experienced critics ensures the success of a public measure, assuredly no measure had ever more of that scruitiny than this.

"I should like to express my recognition of the general fairness and courtesy with which the discussion has been conducted The speeches have been for the greater part most interesting, the arguments have been perfectly fair, and we ha e received a considerable number of excellent practical suggestions, to which th otes of the Council have given their approval. The Hon'ble Mr. Baker has id a tribute to the Secretary of the Council in which I heartily agree. I must ld myself one word of appreciation of the skill and mastery of detail with which the Hon'ble Member in charge of the Bill bore his important part in these long debates. He was pitted in this arena against the most trained and practised knights of controversy, and he bore himself manfully and well. Thanks to his perfect familiarity with every detail, the Council had the great advantage of a complete statement on both sides of the case on every issue that was raised.

"In the whole course of the discussion the only circumstance on which I look back with regret was one which indeed preceded it. I refer to it with

[*The President.*]

reluctance, but it has been twice dragged into to-day's debate; I mean the simultaneous resignation of twenty-eight of the Municipal Commissioners. I refer to it with regret, because among them were men for whom I entertain a genuine regard and liking, a liking which will be in no whit diminished by our political differences in this matter. We have been honourable opponents in this controversy, and, because we have been so, one laments to see one's adversary put himself at a disadvantage by putting himself grievously in the wrong.

"I pass on to the two simple points in the debate, on which in summing it up I am alone called upon to speak. There have been before this Council two cardinal issues. The first is: why should we change the constitution of the Municipality? The other is: if we change, what form should the change tako? The answer to the first issue was given in the long and ample statement with which Mr. Risley introduced this Bill. In the shortest and simplest words, the constitution had not succeeded. On two occasions I have given in Council my personal opinion on this great issue. I have given it with all the courtesy I could command; but I am constrained to repeat that I cannot refuse tho evidence of my own eyes and my own experience, that for the better government of Calcutta a material change is imperiously needed. I spoke then, as I speak now, with the utmost courteousness and respect, because of the disappointment and resentment which the statement of this opinion must give to many excellent men. I have given them credit, as I do again for the best of intentions, for an earnestness and assiduity of purpose, which merited better results. But, alas, good intentions do not necessarily lead to good government, and for the capital of India we must ensure a thoroughly efficient conduct of its public affairs.

"Now what was the cause of this failure? It has been explained again and again that the cause was over-centralization, absorption of the executive authority in the hands of the Corporation and of the over-grown Committees, which it amassed on every branch of the administration. I think of all the speeches that have been delivered in this Council the most impressive was one of those of the Hon'ble Mr. Buckley. Several Members of this Council have been members of the Corporation; not one except the Hon'ble Mr. Buckley has been its servant. He was for a time its Engineer, and he told you how impossible it was to get work done. There is no man in this room more

calm and dispassionate, no one more sympathetic to the opponents of this measure, and his words came with all the weight of his high character.

"That being the cause, we have to provide its remedy. The Bill leaves to the Corporation the power of the purse, the raising and distribution of the funds, and the decision on all the broad issues of the municipal administration, but it decentralises the executive authority. That is placed in the hands of a limited Committee, and of the Chairman acting under its sanction and control. In this Committee are equally represented the three great interests of the city—the rate-payers, the merchants and the Government. Against this adjustment, there is the one passionate outcry, that it is a destruction of local self-government. Twice I have said that it is not. I have to say it yet once more. True, it terminates one form of it that has not answered, but it substitutes another. No Government in the world could stand which stolidly refused to amend its constitution as experience dictated. In England, the home of self-government, the system and method of self-government have been steadily altered as experience was gained. When the vested interests of the ancient vestrymen were touched, precisely the same outcry was raised which we have heard in this Chamber. But England, with all possible tenderness to the disappointed vestry-men, went patiently and firmly on. The change was needed, the change was made, and self-government stands on a stronger, because on a more efficient, basis than before.

"So it will be here. Eloquent declamations of a retrograde Government will doubtless continue, but, as time goes on, the sound sense of the community will prevail. The people will recognize the advantage and convenience of a more prompt and efficient administration, and the very men, whose earnestness of purpose has been the bright particular star in all this stormy quarrel, will come to see that under the new system they will have gained a new authority and a real power to achieve good for their fellow-citizens, which was constantly hampered and thwarted under the system which ends.

"Before I close I should like to say one word, if I may intrude so small a matter, about my personal share in this controversy. I trust that I may claim to have been throughout my service a friend of India and of the Indians. That is no credit. It is certainly no boast. It is the simple duty of every Englishman in India. But to me it has been a quadrupled duty. Four generations of my name have eaten the salt of India, and I am the last. On me it was incumbent to do all that in me lay to help and forward the people of this

[*The President.*]

generous country. The sands of my official life are fast running out. Is it possible, is it conceivable that, except under the cogency of a plain and clear necessity, I should set my hand to a measure which I know must hurt and wound those whom I seek to serve? I have been told—not in this Council, for my colleagues know me too well—but I have been told in the plainest terms that I shall be excommunicated for my part in this matter. I venture to hope not, but were it so I should still unfalteringly do my duty. I stood once at the bed-side of a famous Indian officer. A surgeon performed an operation which saved his life, but in the moment of his agony he anathematized the surgeon as inhuman. Even out of evil, perhaps always out of evil, cometh good, and out of all this pain and wrangle there will emerge a new order, and with it a new prosperity to this great city."

The motion being put, the Council divided as follows:—

Ayes 12.

The Hon'ble Mr. Buckley.
The Hon'ble Mr. Buckland.
The Hon'ble Mr. Handley.
The Hon'ble Rai Durga Gati Banerjea, Bahadur.
The Hon'ble Mr. Mackenzie.
The Hon'ble Mr. Spink.
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
The Hon'ble Mr. Oldham.
The Hon'ble Mr. Baker.
The Hon'ble Mr. Bolton.
The Hon'ble Mr. Slack.

Noes. 6.

The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.
The Hon'ble Babu Jatra Mohan Sen.
The Hon'ble Babu Boikanta Nath Sen.
The Hon'ble Babu Sureadranath Banerjea.
The Hon'ble Mr. Apcar.
The Hon'ble Dr. Asutosh Mukhopadhyay.

So the motion was carried.

The Council was then adjourned *sine die.*

CALCUTTA;
The 16th January, 1900.

F. G. WIGLE
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 7898—300—7.2.1900.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled under the provisions of the Indian Councils Acts, 1861 and 1892.

The Council met in the Council Chamber on Wednesday, the 20th December, 1899.

Present:

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble MR. J. PRATT.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

NEW MEMBER.

The Hon'ble MR. PRATT took his seat in Council.

STATEMENT BY THE PRESIDENT.

The Hon'ble THE PRESIDENT said:—"Gentlemen of the Council, I am sorry that I have been compelled to ask your attendance after so short a recess. Many of you were present at the Durbar of Saturday last, and I then explained the reason for the assembly of the Council. The main business before you will be a Bill enlarging the Municipal Act in regard to Darjeeling. As I said

[*The President.*]

on Saturday, time is in this matter of unusual importance; for, if anything is to be done to prevent further damage to life and property in that Municipality, the necessary works must be pushed forward as far as possible before next rains. The provisions of the Bill will be explained to you presently by the Hon'ble Member in charge of it, and I will not myself intrude upon his province.

"The Council will reasonably expect from me some statement in regard to the revised regulations for the Council which have been recently published in the Gazette of India. The question of the revision of the rules of 1893 was raised last year by the British Indian Association, who represented that the privilege of recommending a Member should be extended to the landholders, and a report was submitted to the Government of India, by whom the opinion of this Government was also desired, as to whether five years' experience of the working of the regulations suggested any alteration of them. The regulations of the Bombay Council provide for the recommendation of a Member by the Sirdars of the Dekkhan or such other class of landholders as might from time to time be prescribed; as also of a representative of the landholders of Sind; and in the North-West Provinces any association or associations of landholders may also be invited to recommend to seats in the local Council. In Bengal, on the other hand, the regulations gave no right of recommendation to the landholders; the corresponding provision being that ordinarily one of the seats to which the Lieutenant-Governor nominates at his discretion should be held by a representative of the great landholders of the province. The desire of the zamindars to be accorded the privilege of themselves recommending a Member appeared, therefore, reasonable, and it remained to consider in what way the request conveyed by the British Indian Association could be met without affecting the directly representative element in the Council. Of the seven seats reserved for recommendation by public bodies and Associations, the Corporation of Calcutta, the Senate of the Calcutta University and the Chamber of Commerce as a commercial Association have each been assigned one, and from none of them could the privilege of recommendation have been possibly withdrawn. It was necessary, therefore, to find a seat for the landholders from the remaining four seats allotted to the District Boards and to the Municipal Corporations other than Calcutta. These seats represent the interests of the population of the districts, and special representation of the

[*The President; Dr. Asutosh Mukhopadhyaya.*]

landholders fulfils the same condition. The transfer of one of them to the landholders does not, therefore, detract from the representation of those interests. In considering whether the seat should be taken from the Municipal Corporations or the District Boards, this Government was influenced by the fact that the District Boards represent an overwhelming majority of the population, while the Municipal Boards represent the special interests of a total urban population of less than three millions. Municipal interests are, moreover, also represented in the Council by the Member for the Calcutta Corporation. The transfer of one seat from the municipal bodies to the landholders was, therefore, recommended, and the change has been embodied in the new regulations. The Lieutenant-Governor will retain his right of nominating to three seats. I think my predecessors were right in the opinion that this number is necessary for the proper representation of communities that might not otherwise obtain representation at all, or for the fuller representation of the interests specially affected by measures brought before the Council. No change can ever be made without disappointment to some, but an impartial opinion will not, I think, hesitate in agreeing that the great associations of the landholders of Bengal are entitled to a direct and permanent representation in the Council. The municipal bodies there is no reason for disturbing in their representation at present, and the assurance which I gave to the municipalities of the Dacca Division will be fulfilled.

QUESTIONS AND ANSWERS.

Lady Students in the Presidency, Bethune, Ravenshaw and Government Arts Colleges.

The Hon'ble Dr. Asutosh Mukhopadhyaya asked—

I. Has the attention of the Government been called to the fact that young ladies are now admitted to the different classes of the Presidency College as students, and that they are allowed seats in the same class rooms with young men, while lectures are delivered?

II. Will the Government be pleased to enquire and state whether young men and ladies reading for Degree Examinations in Arts, at either Oxford or Cambridge, are in any, and if any what, College admitted as members and taught in the same class rooms?

[*Dr. Asutosh Mukhopadhyaya.*]

III. Will the Government be pleased to lay on the table copies of the following papers:—

(1) A despatch from the Court of Directors of the East India Company to the Governor General of India in Council (No. 49, dated 19th July, 1854).

(2) Letter No. 29, dated 5th May, 1854, from the Government of India to the Court of Directors, relating to the establishment of a Presidency College at Calcutta.

(3) Despatch from the Court of Directors to the Government of India (No. 62, dated 13th September, 1854).

(4) Despatch from the Secretary of State for India to the Government of India (No. 4, dated 7th April, 1859).

IV. Will the Government be pleased to state whether it is not quite clear from the documents mentioned above, specially from paragraphs 57, 83 and 90 of the Despatch of 1854, and from paragraphs 25, 26, 27, 28, 29, 30 and 47 of the Despatch of 1859, that it was contemplated that there should be separate institutions for the education of males and females?

V. Will the Government be pleased to enquire and state whether any, and if any what, special arrangements and precautions have been found necessary for the proper protection of the lady students admitted to the Presidency College?

VI. Will the Government be pleased to enquire and state if it has been found necessary to punish a student for ungentlemanly conduct towards any of the lady students?

VII. Will the Government be pleased to enquire and state whether it is true that scandalous scribblings have recently been found on the walls of the Presidency College, referring to some of the lady students, and that no detection of the offender has been found possible?

VIII. Will the Government be pleased to enquire and state the respective dates on which the first lady student passed the Entrance, F.A. and B.A. Examinations of the Calcutta University: also the number of the lady students who have passed the F.A. and B.A. Examinations since these dates, and also

[*Dr. Asutosh Mukhopadhyaya; Mr. Slack.*]

how many of these passed as private students and how many as students of an affiliated institution other than the Presidency College?

IX. Will the Government be pleased to state whether in recent years any, and if any what, exceptional circumstances have happened to render it necessary that the Presidency College should be thrown open to lady students?

X. Will the Government be pleased to state whether the Bethune College is furnished with an adequate staff for the education of female students up to the F.A. and B.A. Standards, whether it is efficiently managed, and whether the results have been found satisfactory?

XI. Will the Government be pleased to enquire and state whether within the last five years any applications have been made by lady students for admission into the Ravenshaw College, Cuttack, and what orders, if any, have been passed upon each of such applications?

XII. Will the Government be pleased to state—

(*i*) whether it is desirable, and

(*ii*) whether the Government intends,

to allow lady students to continue to obtain admission into Government Arts Colleges and to be taught in the same class rooms with young men?

The Hon'ble MR. SLACK replied to the above questions as follows:—

"I. Yes."

"II. Young ladies reading for the Degree Examination in Arts both at Oxford and Cambridge are not admitted as members to any of the Colleges to which men belong, but are admitted to the College lectures given to the undergraduates. Instances of such Colleges are Exeter, Balliol, Queen's, Corpus Christi, Wadham."

"III. These are put on the table."

"IV. Assuming that the higher education of women was considered in 1854, when the documents referred to by the Hon'ble Member were drawn up, there is nothing in such documents to show that the Presidency College was intended exclusively for males, nor is there anything to show that in 1854 Government contemplated that no female should be educated save in a school specially set apart for females to the exclusion of males.

[*Mr. Slack.*]

"The answer, therefore, to the Hon'ble Member's question is in the negative."

"V. A separate waiting-room has been provided for the lady students, and they have separate accommodation in the lecture-room."

"VI. Government has been informed that in two cases students were punished for ungentlemanly conduct towards lady students. The offences in both cases were trivial."

"VII. It is the case that such scribblings were found on the walls of two of the rooms in the College, and that the offenders were not detected."

"VIII. Statements giving the information asked for have been supplied to the Hon'ble Member.

Table showing the number of Lady Students that came up for the Entrance Examination of the Calcutta University and the number passed since 1876.

Year.			Number of candidates.	Number passed.
1876	...	...	1	1
1877	...	...	...	...
1878	...	...	1	1
1879	...	...	1	...
1880	...	...	6	4
1881	...	...	10	8
1882	...	...	4	2
1883	...	...	11	9
1884	...	...	...	...
1885	...	...	52	11
1886	...	...	52	23
1887	...	...	55	38
1888	...	...	52	31
1889	...	...	47	23
1890	...	...	51	26
1891	...	...	57	40
1892	...	...	61	27
1893	...	...	73	42
1894	...	...	68	29
1895	...	...	88	49
1896	...	...	46	35
1897	...	...	82	66
1898	...	...	78	32
1899	...	...	63	42
	Total	...	959	529

[*Mr. Slack.*]

Statement showing the number of lady students that came up for the F.A. and B.A. Examinations of the Calcutta University and the number passed since 1880.

Year.	F.A.				B.A.			
	Number of candidates.	Number passed.			Number of candidates.	Number passed.		
		Students belonging to institutions.	Private students.	Total.		Students belonging to institutions.	Private students.	Total.
1	2	3	4	5	6	7	8	9
1880 ...	2	2	...	2	...	...	...	...
1882 ...	1	...	...	...	...	...	...	...
1883 ...	7	5	...	5	2	2	...	2
1885 ...	2	...	...	...	..	...	...	...
1886 ...	4	4	...	4	3	2	...	2
1887 ...	2	...	...	...	2	2	...	2
1888 ...	11	6	...	6	...	...	...	...
1889 ...	14	6	...	6	...	...	...	...
1890 ...	9	7	1	8	4	3	1	4
1891 ...	8	5	...	5	1	1	...	1
1892 ...	9	5	...	5	4	1		2
1893 ...	14	9	1	10	5	3	...	3
1894 ...	9	6	...	6	3	1	1	2
1895 ...	8	5	1	6	6	...	1	1
1896 ...	12	8	...	8	5	2	...	2
1897	15	10	2	12	3	1	1	2
1898 ...	14	7	4	11	8	4	...	4
1899 ...	16	10	2	12*	7	4	...	4
Total ...	157	95	11	106	53	26	5	31

* Including two Presidency College students, who are the only lady students who have ever passed from the Presidency College.

No lady students have ever passed the B.A. from the Presidency College.

"IX. There is nothing to show that the Presidency College was reserved entirely for male students."